Comptroller's Handbook CC-TILA

Consumer Compliance (CC)

Truth in Lending Act

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Introduction

The Office of the Comptroller of the Currency's (OCC) *Comptroller's Handbook* booklet, "Truth in Lending Act," is prepared for use by OCC examiners in connection with their examination and supervision of national banks and federal savings associations (collectively, banks).[1] Each bank is different and may present specific issues. Accordingly, examiners should apply the guidance in this booklet consistent with each bank's individual circumstances.

The booklet provides background information and optional expanded examination procedures for the Truth in Lending Act (TILA) and Regulation Z, which implements TILA. Examiners decide which of these procedures are necessary, if any, after completing a compliance core assessment as outlined in the "Community Bank Supervision," "Large Bank Supervision," and "Federal Branches and Agencies Supervision" booklets of the *Comptroller's Handbook.* Complaint information received by the Office of the Ombudsman and the Customer Assistance Group may also be useful in completing the assessment.

Background and Summary

TILA (15 USC 1601 et seq.) was enacted on May 29, 1968, as title I of the Consumer Credit Protection Act (Pub. L. No. 90-321). TILA, implemented by Regulation Z (12 CFR 1026), became effective on July 1, 1969.

TILA was first amended in 1970 to prohibit unsolicited credit cards. Additional major amendments to TILA and Regulation Z were made by the Fair Credit Billing Act of 1974, the Consumer Leasing Act of 1976, the Truth in Lending Simplification and Reform Act of 1980, the Fair Credit and Charge Card Disclosure Act of 1988, and the Home Equity Loan Consumer Protection Act of 1988.

Regulation Z also was amended to implement section 1204 of the Competitive Equality Banking Act of 1987 and, in 1988, to include adjustable rate mortgage (ARM) loan disclosure requirements. All consumer leasing provisions were deleted from Regulation Z in 1981 and transferred to Regulation M (12 CFR 1013).

The Home Ownership and Equity Protection Act of 1994 (HOEPA) also amended TILA. The law imposed new disclosure requirements and substantive limitations on certain closed-end mortgage loans bearing rates or fees above a certain percentage or amount. The law also included new disclosure requirements to assist consumers in comparing the costs and other material considerations involved in a reverse mortgage transaction and authorized the Board of Governors of the Federal Reserve System (FRB) to prohibit specific acts and practices in connection with mortgage transactions.

[1] The Dodd–Frank Wall Street Reform and Consumer Protection Act granted the Consumer Financial Protection Bureau (CFPB) authority to supervise and enforce compliance with TILA and its implementing regulations with respect to the entities under the CFPB's jurisdiction. See 12 USC 5481(12)(O), 5514(b)-(c) and 5515(b)-(c).

The TILA amendments of 1995 dealt primarily with tolerances for real estate secured credit. Regulation Z was amended on September 14, 1996, to incorporate changes to TILA. Specifically, the revisions limit lenders' liability for disclosure errors in real estate secured loans consummated after September 30, 1995. The Economic Growth and Regulatory Paperwork Reduction Act of 1996 further amended TILA. The amendments were made to simplify and improve disclosures related to credit transactions.

The Electronic Signatures in Global and National Commerce Act (E-Sign Act), 15 USC 7001 et seq., was enacted in 2000 and did not require implementing regulations. On November 9, 2007, amendments to Regulation Z and the official commentary were issued to simplify the regulation and provide guidance on the electronic delivery of disclosures consistent with the E-Sign Act.

In July 2008, Regulation Z was amended to protect consumers in the mortgage market from unfair, abusive, or deceptive lending and servicing practices. Specifically, the change applied protections to a newly defined category of "higher-priced mortgage loans" that includes virtually all closed-end subprime loans secured by a consumer's principal dwelling. The revisions also applied new protections to mortgage loans secured by a dwelling regardless of loan price and required the delivery of early disclosures for more types of transactions. The revisions also banned several advertising practices deemed deceptive or misleading.

The Mortgage Disclosure Improvement Act of 2008 (MDIA) broadened and added to the requirements of the FRB's July 2008 final rule by requiring early truth-in-lending disclosures for more types of transactions and by adding a waiting period between the time when disclosures are given and consummation of the transaction. In 2009, Regulation Z was amended to address those provisions. The MDIA also requires disclosure of payment examples if the loan's interest rate or payments can change, as well as disclosure of a statement that there is no guarantee the consumer will be able to refinance in the future. In 2010, Regulation Z was amended to address these provisions, which became effective on January 30, 2011.

In December 2008, the FRB adopted two final rules pertaining to open-end (not home-secured) credit. The first rule involved Regulation Z revisions and made comprehensive changes applicable to several disclosures required for applications and solicitations, new accounts, periodic statements, change in terms notifications, and advertisements. The second was a rule published under the Federal Trade Commission (FTC) Act and issued jointly with the Office of Thrift Supervision (OTS)[2] and the National Credit Union Administration (NCUA). It sought to protect consumers from unfair acts or practices with respect to consumer credit card accounts. Before these rules became effective, however, the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit CARD Act) amended TILA and established a number of new requirements for open-end consumer credit plans. Several provisions of the Credit CARD Act are similar to provisions in the FRB's December 2008 TILA revisions and the joint FTC Act rule, but other portions of the Credit CARD Act address practices or mandate disclosures that were not addressed in these rules. In light of the

[2] In July 2011, as a result of Dodd–Frank, the OTS was integrated into the OCC.

Credit CARD Act, the FRB, the NCUA, and the OTS withdrew the substantive requirements of the joint FTC Act rule. On July 1, 2010, creditors were required to comply with the provisions of the FRB's rule that were not affected by the Credit CARD Act.

The Credit CARD Act provisions became effective in three stages. The provisions effective first, on August 20, 2009, required creditors to increase the amount of notice consumers receive before the rate on a credit card account is increased or a significant change is made to the account's terms. These amendments also allowed consumers to reject such increases and changes by informing the creditor before the increase or change goes into effect. The provisions effective next, on February 22, 2010, involved rules regarding interest rate increases, over-the-limit transactions, and student cards. Finally, the provisions effective last, on August 22, 2010, addressed the reasonableness and proportionality of penalty fees and charges and reevaluation of rate increases.

In 2009, Regulation Z was amended following the passage of the Higher Education Opportunity Act by adding disclosure and timing requirements that apply to lenders making private education loans.

In 2009, the Helping Families Save Their Homes Act amended TILA to establish a new requirement for notifying consumers of the sale or transfer of their mortgage loans. The purchaser or assignee that acquires the loan must provide the required disclosures no later than 30 days after the date on which it acquired the loan.

In 2010, the FRB further amended Regulation Z to prohibit payment to a loan originator that is based on the terms or conditions of the loan, other than the amount of credit extended. The amendment applies to mortgage brokers and the companies that employ them, as well as to mortgage loan officers employed by depository institutions and other lenders. In addition, the amendment prohibits a loan originator from directing or "steering" a consumer to a loan that is not in the consumer's interest, to increase the loan originator's compensation.

Dodd–Frank amended TILA to include several provisions that protect the integrity of the appraisal process when a consumer's home is securing the loan. The statute also requires that appraisers receive customary and reasonable payments for their services. The appraiser and loan originator compensation requirements had a mandatory compliance date of April 6, 2011.

Dodd–Frank granted rulemaking authority under TILA to the Consumer Financial Protection Bureau (CFPB). Title XIV of Dodd–Frank included a number of amendments to TILA, and in 2013, the CFPB issued rules to implement them. Prohibitions on mandatory arbitration and waivers of consumer rights, as well as requirements that lengthen the time creditors must maintain an escrow account for higher-priced mortgage loans, were generally effective

June 1, 2013. The remaining amendments to Regulation Z were effective in January 2014.[3] These amendments include ability-to-repay requirements for mortgage loans, appraisal requirements for higher-priced mortgage loans, and a revised and expanded test for high-cost mortgages, as well as additional restrictions on those loans, expanded requirements for servicers of mortgage loans, refined loan originator compensation rules and loan origination qualification standards, and a prohibition on financing credit insurance for mortgage loans. The amendments also established new record retention requirements for certain provisions of TILA.

In 2013, the CFPB issued a final rule revising the general limitation on the total amount of account fees that a credit card issuer may require a consumer to pay. Effective March 28, 2013, the limit is 25 percent of the credit limit in effect when the account is opened. The limitation applies only during the first year after account opening.

In 2013, the CFPB also issued a final rule to remove the requirement that card issuers consider the consumer's independent ability to pay for applicants who are 21 or older and to permit issuers to consider income and assets to which such consumers have a reasonable expectation of access. This change was effective May 3, 2013, with a mandatory compliance date of November 4, 2013.

Format of Regulation Z

The rules that creditors must follow differ depending on whether the creditor is offering open-end credit, such as credit cards or home-equity lines, or closed-end credit, such as car loans or mortgages.

Subpart A (12 CFR 1026.1 through 1026.4) of the regulation provides general information that applies to open-end and closed-end credit transactions. It sets forth definitions and stipulates which transactions are covered and which are exempt from the regulation. It also contains the rules for determining which fees are finance charges.

Subpart B (12 CFR 1026.5 through 1026.16) relates to open-end credit. It contains rules on account-opening disclosures and periodic statements. It also describes special rules that apply to credit card transactions, treatment of payments and credit balances, procedures for resolving credit billing errors, annual percentage rate (APR) calculations, rescission requirements, and advertising.

Subpart C (12 CFR 1026.17 through 1026.24) relates to closed-end credit. It contains rules on disclosures, treatment of credit balances, APR calculations, rescission requirements, and advertising.

Subpart D (12 CFR 1026.25 through 1026.30) contains rules on oral disclosures, disclosures in languages other than English, record retention, effect on state laws, state exemptions, and rate limitations.

[3] These examination procedures cover amendments to Regulation Z that were published in the *Federal Register* in final form as of December 26, 2013.

Subpart E (12 CFR 1026.31 through 1026.45) contains special rules and exemptions for certain mortgage transactions. It contains rules on certain disclosures and provides limitations for loans that have rates or fees above specified amounts, and restricts certain terms for high-cost mortgages, higher-priced mortgage loans, and home equity plans. It contains requirements for reverse mortgage transactions. It provides for additional prohibitions on specific acts and practices in connection with an extension of credit secured by a dwelling. It contains rules on valuation independence, loan originator compensation for loans secured by a dwelling, loan originator qualification standards, prohibitions on mandatory arbitration clauses and waivers of certain consumer rights for loans secured by a dwelling, a prohibition on financing credit insurance for loans secured by a dwelling, and homeownership counseling requirements for certain types of loans secured by a dwelling. It also contains certain servicing requirements, such as the requirement to provide periodic billing statements. It establishes minimum standards for transactions secured by a dwelling, including repayment ability and qualified mortgage standards.

Subpart F (12 CFR 1026.46 through 1026.48) relates to private education loans. It contains rules on disclosures, limitations on changes in terms after approval, the right to cancel the loan, and limitations on co-branding in the marketing of private education loans.

Subpart G (12 CFR 1026.51 through 1026.60) relates to credit card accounts under an open-end (not home-secured) consumer credit plan (except for 12 CFR 1026.57(c), which applies to all open-end credit plans). This subpart contains rules regarding credit and charge card application and solicitation disclosures. It also contains rules on evaluation of a consumer's ability to make the required payments under the terms of an account, limits the fees that a consumer can be required to pay, and contains rules on allocation of payments in excess of the minimum payment. It also sets forth certain limitations on the imposition of finance charges as the result of a loss of a grace period, and on increases in APRs, fees, and charges for credit card accounts, including the reevaluation of rate increases. This subpart prohibits the assessment of fees or charges for over-the-limit transactions unless the consumer affirmatively consents to the creditor's payment of over-the-limit transactions. This subpart also sets forth rules for reporting and marketing of college student open-end credit. Finally, it sets forth requirements for the Internet posting of credit card accounts under an open-end (not home-secured) consumer credit plan.

Several appendixes to the regulation contain information such as the procedures for determinations about state laws, state exemptions and issuance of official interpretations, special rules for certain kinds of credit plans, model disclosure forms, standards for determining ability to pay, and rules for computing APRs in closed-end credit transactions and total-annual-loan-cost rates for reverse mortgage transactions.

Official interpretations of the regulation are published in a commentary. Good-faith compliance with the commentary protects creditors from civil liability under TILA. In

addition, the commentary includes more detailed information on disclosures or other actions required of creditors. It is virtually impossible to comply with Regulation Z without reference to and reliance on the commentary.

Note: The following narrative does not track the subparts in Regulation Z in the order set forth in the regulation but rather groups subparts together by credit product for ease of reference.

Subpart A—General

Purpose of TILA and Regulation Z

TILA is intended to ensure that credit terms are disclosed in a meaningful way so consumers can compare credit terms more readily and knowledgeably. Before TILA's enactment, consumers were faced with a bewildering array of credit terms and rates. It was difficult to compare loans because they were seldom presented in the same format. Now, all creditors must use the same credit terminology and expressions of rates. In addition to providing a uniform system for disclosures, the act

- protects consumers against inaccurate and unfair credit billing and credit card practices.
- provides consumers with rescission rights.
- provides for rate caps on certain dwelling-secured loans.
- imposes limitations on home equity lines of credit (HELOC) and certain closed-end home mortgages.
- provides minimum standards for most dwelling-secured loans.
- delineates and prohibits unfair or deceptive mortgage lending practices.

TILA and Regulation Z do not, however, set limits on how much interest a financial institution may charge, nor do they obligate the institution to approve a consumer's request for a loan.

Summary of Coverage Considerations—12 CFR 1026.1 and 1026.2

Financial institutions must carefully consider several factors when deciding whether a loan requires TILA disclosures or is subject to other Regulation Z requirements. The coverage considerations under Regulation Z are addressed in more detail in the commentary to that regulation. For example, broad coverage considerations are included under 12 CFR 1026.1(c) of the regulation, and relevant definitions appear in 12 CFR 1026.2.

Exempt Transactions—12 CFR 1026.3

The following transactions are exempt from Regulation Z:

- Credit extended primarily for a business, commercial, or agricultural purpose.

- Credit extended to other than a natural person (including credit to government agencies or instrumentalities).
- Credit in excess of an annually adjusted threshold not secured by real property or by personal property used or expected to be used as the principal dwelling of the consumer.[4]
- Public utility credit.
- Credit extended by a broker-dealer registered with the U.S. Securities and Exchange Commission or the U.S. Commodity Futures Trading Commission, involving securities or commodities accounts.
- Home fuel budget plans not subject to a finance charge.
- Certain student loan programs.

When a credit card is involved, however, generally exempt credit (e.g., business purpose credit) is subject to the requirements that govern the issuance of credit cards and liability for their unauthorized use. Credit cards must not be issued on an unsolicited basis, and, if a credit card is lost or stolen, the cardholder must not be held liable for more than $50 for the unauthorized use of the card (Comment 3-1).

When determining whether credit is for consumer purposes, the creditor must evaluate all of the following:

- **Any statement obtained from the consumer describing the purpose of the proceeds.**
  - For example, a statement that the proceeds will be used for a vacation trip would indicate a consumer purpose.
  - If the loan has a mixed-purpose (e.g., proceeds will be used to buy a car that will be used for personal and business purposes), the lender must look to the primary purpose of the loan to decide whether disclosures are necessary. A statement of purpose from the consumer will help the lender make that decision.
  - A checked box indicating that the loan is for a business purpose, absent any documentation showing the intended use of the proceeds, could be insufficient evidence that the loan did not have a consumer purpose.
- **The consumer's primary occupation and how it relates to the use of the proceeds.** The greater the correlation between the consumer's occupation and the likelihood that the property purchased from the loan proceeds will be used in connection with that occupation, the greater the likelihood that the loan will be deemed to have a business purpose. For example, proceeds used to purchase dental supplies for a dentist would indicate a business purpose.
- **The borrower's personal management of the assets purchased from proceeds.** If the borrower has limited or no personal involvement in the management of the investment or enterprise purchased by the loan proceeds, the loan will be less likely to be deemed to

[4] The threshold amount is $25,000 for credit extended before July 21, 2011. Dodd–Frank requires that this threshold be adjusted annually by any annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). Accordingly, based on the annual percentage increases in the CPI-W the annual threshold amounts from July 21, 2011, are as follows: From July 21, 2011, through December 31, 2011, $50,000; from January 1, 2012, through December 31, 2012, $51,800; from January 1, 2013, through December 31, 2013, $53,000; from January 1, 2014, through December 31, 2014, $53,500; and from January 1, 2015, through December 31, 2015, $54,600.

have a business purpose. For example, money borrowed to purchase stock in an automobile company by an individual who does not work for that company would indicate a personal investment and a consumer purpose.

- **The size of the transaction.** The larger the dollar amount of the transaction, the more likely the loan will have a business purpose. For example, if the loan is for a $5 million real estate transaction, that might indicate a business purpose.
- **The amount of income derived from the property acquired by the loan proceeds relative to the borrower's total income.** The lower the income derived from the acquired property is as a percentage of the borrower's total income, the more likely the loan will be deemed to have a consumer purpose. For example, if the borrower has an annual salary of $100,000 and receives about $500 in annual dividends from the acquired property, that would indicate a consumer purpose.

All five factors must be evaluated before the lender can conclude that TILA disclosures are not necessary. Normally, no one factor by itself is sufficient reason to determine the applicability of Regulation Z. In any event, the financial institution may routinely furnish disclosures to the consumer. Providing disclosures to the borrower does not conclusively establish that the transaction is covered by TILA, but it can ensure that the financial institution has complied with the law.

See the "Coverage Considerations Under Regulation Z" chart in appendix A of this booklet.

Determination of Finance Charge and Annual Percentage Rate

Finance Charge (Open-End and Closed-End Credit)—12 CFR 1026.4

The finance charge is a measure of the cost of consumer credit represented in dollars and cents. Along with APR disclosures, the disclosure of the finance charge is central to the uniform credit cost disclosure envisioned by TILA.

The finance charge does not include any charge of a type payable in a comparable cash transaction. Examples of charges payable in a comparable cash transaction may include taxes, title, license fees, or registration fees paid in connection with an automobile purchase.

Finance charges include any charges or fees payable directly or indirectly by the consumer and imposed directly or indirectly by the financial institution either as an incident to or as a condition of an extension of consumer credit. The finance charge on a loan always includes any interest charges and often includes other charges. Regulation Z includes examples, applicable to both open-end and closed-end credit transactions, of what must, must not, or need not be included in the disclosed finance charge (12 CFR 1026.4(b)).

Accuracy Tolerances (Closed-End Credit)—12 CFR 1026.18(d) and 1026.23(g)

Regulation Z provides finance charge tolerances for legal accuracy that should not be confused with those provided in TILA for reimbursement under regulatory agency orders. As

with disclosed APRs, if a disclosed finance charge were legally accurate, it would not be subject to reimbursement.

Under TILA and Regulation Z, finance charge disclosures for open-end credit must be accurate since there is no tolerance for finance charge errors. Both TILA and Regulation Z, however, permit various finance charge accuracy tolerances for closed-end credit.

Tolerances for the finance charge in a closed-end transaction, other than a mortgage loan, are generally $5 if the amount financed is less than or equal to $1,000, and $10 if the amount financed exceeds $1,000. Tolerances for certain transactions consummated on or after September 30, 1995, are noted below.

- **Credit secured by real property or a dwelling (closed-end credit only).**
  - The disclosed finance charge is considered accurate if it is not understated by more than $100.
  - Overstatements are not violations.
- **Rescission rights after the three-business-day rescission period (closed-end credit only).**
  - The disclosed finance charge is considered accurate if it does not vary from the actual finance charge by more than 0.5 percent of the credit extended, or $100, whichever is greater.
  - The disclosed finance charge is considered accurate if it does not vary from the actual finance charge by more than 1 percent of the credit extended for the initial and subsequent refinancings of residential mortgage transactions when the new loan is made at a different financial institution. (This excludes high-cost mortgage loans subject to 12 CFR 1026.32, transactions in which there are new advances, and new consolidations.)
- **Rescission rights in foreclosure.**
  - The disclosed finance charge is considered accurate if it does not vary from the actual finance charge by more than $35.
  - Overstatements are not considered violations.
  - The consumer can rescind if a mortgage broker fee that should have been included in the finance charge was not included.

  Note: Normally, the finance charge tolerance for a rescindable transaction is either 0.5 percent of the credit transaction or, for certain refinancings, 1 percent of the credit transaction. In the event of a foreclosure, however, the consumer may exercise the right of rescission if the disclosed finance charge is understated by more than $35.

See the “Finance Charge Tolerances” charts in appendix C of this booklet for help in determining appropriate finance charge tolerances.

Calculating the Finance Charge (Closed-End Credit)

One of the more complex tasks under Regulation Z is determining whether a charge associated with an extension of credit must be included in, or excluded from, the disclosed finance charge. The finance charge initially includes any charge that is, or will be, connected with a specific loan. Charges imposed by third parties are finance charges if the financial institution requires use of the third party. Charges imposed by settlement or closing agents are finance charges if the bank requires the specific service that gave rise to the charge and the charge is not otherwise excluded. The "Finance Charge Chart" in appendix B of this booklet briefly summarizes the rules that must be considered.

Prepaid Finance Charges—12 CFR 1026.18(b)(3)

A prepaid finance charge is any finance charge paid separately to the financial institution or to a third party, in cash or by check before or at closing, settlement, or consummation of a transaction, or withheld from the proceeds of the credit at any time.

Prepaid finance charges effectively reduce the amount of funds available for the consumer's use, usually before or at the time the transaction is consummated.

Examples of finance charges frequently prepaid by consumers are borrower's points, loan origination fees, real estate construction inspection fees, odd days' interest (interest attributable to part of the first payment period when that period is longer than a regular payment period), mortgage guarantee insurance fees paid to the Federal Housing Administration (FHA), private mortgage insurance (PMI) paid to such companies as the Mortgage Guaranty Insurance Corporation, and, in non-real-estate transactions, credit report fees.

Precomputed Finance Charges

A precomputed finance charge includes, for example, interest added to the note amount that is computed by the add-on, discount, or simple interest methods. If reflected in the face amount of the debt instrument as part of the consumer's obligation, finance charges that are not viewed as prepaid finance charges are treated as precomputed finance charges that are earned over the life of the loan.

See the "Finance Charge" chart in appendix B.

Annual Percentage Rate Definition—12 CFR 1026.22 (Closed-End Credit)

Credit costs may vary depending on the interest rate, the amount of the loan and other charges, the timing and amounts of advances, and the repayment schedule. The APR, which must be disclosed in nearly all consumer credit transactions, is designed to take into account all relevant factors and to provide a uniform measure for comparing the cost of various credit transactions.

The APR is a measure of the cost of credit, expressed as a nominal yearly rate. It relates the amount and timing of value received by the consumer to the amount and timing of payments made. The disclosure of the APR is central to the uniform credit cost disclosure envisioned by TILA.

The value of a closed-end credit APR must be disclosed as a single rate only, whether the loan has a single interest rate, a variable interest rate, a discounted variable interest rate, or graduated payments based on separate interest rates (step rates), and it must appear with the segregated disclosures. Segregated disclosures are grouped together and do not contain any information not directly related to the disclosures required under 12 CFR 1026.18.

Since an APR measures the total cost of credit, including costs such as transaction charges or premiums for credit guarantee insurance, it is not an "interest" rate, as that term is generally used. APR calculations do not rely on definitions of interest in state law and often include charges, such as a commitment fee paid by the consumer, that are not viewed by some state usury statutes as interest. Conversely, an APR might not include a charge, such as a credit report fee in a real property transaction, that some state laws might view as interest for usury purposes. Furthermore, measuring the timing of value received and of payments made, which is essential if APR calculations are to be accurate, must be consistent with parameters under Regulation Z.

The APR is often considered to be the finance charge expressed as a percentage. Two loans, however, could require the same finance charge and still have different APRs because of differing values of the amount financed or of payment schedules. For example, the APR is 12 percent on a loan with an amount financed of $5,000 and 36 equal monthly payments of $166.07 each. It is 13.26 percent on a loan with an amount financed of $4,500 and 35 equal monthly payments of $152.18 each and final payment of $152.22. In both cases, the finance charge is $978.52. The APRs on these example loans are not the same because an APR does not only reflect the finance charge. It relates the amount and timing of value received by the consumer to the amount and timing of payments made.

The APR is a function of

- the amount financed, which is not necessarily equivalent to the loan amount. For example, if the consumer must pay at closing a separate 1 percent loan origination fee (prepaid finance charge) on a $100,000 residential mortgage loan, the loan amount is $100,000, but the amount financed would be $100,000 less the $1,000 loan fee, or $99,000.
- the finance charge, which is not necessarily equivalent to the total interest amount (interest is not defined by Regulation Z, but rather is defined by state or other federal law). For example,
  - if the consumer must pay a $25 credit report fee for an auto loan, the fee must be included in the finance charge. The finance charge in that case is the sum of the interest on the loan (i.e., interest generated by the application of a percentage rate against the loan amount) plus the $25 credit report fee.

  - if the consumer must pay a $25 credit report fee for a home improvement loan secured by real property, the credit report fee must be excluded from the finance charge. The finance charge in that case would be only the interest on the loan.
- the payment schedule, which does not necessarily include only principal and interest (P + I) payments. For example,
  - if the consumer borrows $2,500 for a vacation trip at 14 percent simple interest per annum and repays that amount with 25 equal monthly payments beginning one month from consummation of the transaction, the monthly P + I payment will be $115.87, if all months are considered equal, and the amount financed would be $2,500. If the consumer's payments are increased by $2 a month to pay a non-financed $50 loan fee during the life of the loan, the amount financed would remain at $2,500 but the payment schedule would be increased to $117.87 a month, the finance charge would increase by $50, and there would be a corresponding increase in the APR. This would be the case whether or not state law defines the $50 loan fee as interest.
  - if the loan above has 55 days to the first payment and the consumer prepays interest at consummation ($24.31 to cover the first 25 days), the amount financed would be $2,500 – $24.31, or $2,475.69. Although the amount financed has been reduced to reflect the consumer's reduced use of available funds at consummation, the time interval during which the consumer has use of the $2,475.69, 55 days to the first payment, has not changed. Since the first payment period exceeds the limitations of the regulation's minor irregularities provisions (see 12 CFR 1026.17(c)(4)), it may not be treated as a regular period. In calculating the APR, the first payment period must not be reduced by 25 days (i.e., the first payment period may not be treated as one month).

Financial institutions may, if permitted by state or other law, precompute interest by applying a rate against a loan balance using a simple interest, add-on, discount, or some other method, and may earn interest using a simple interest accrual system, the Rule of 78's (if permitted by law) or some other method. Unless the financial institution's internal interest earnings and accrual methods involve a simple interest rate based on a 360-day year that is applied over actual days (even that is important only for determining the accuracy of the payment schedule), it is not relevant in calculating an APR, since an APR is not an interest rate (as that term is commonly used under state or other law). Since the APR normally need not rely on the internal accrual systems of a bank, it always may be computed after the loan terms have been agreed upon (as long as it is disclosed before actual consummation of the transaction).

Special Requirements for Calculating the Finance Charge and APR

Proper calculation of the finance charge and APR are of primary importance. The regulation requires that the terms "finance charge" and "annual percentage rate" be disclosed more conspicuously than any other required disclosure, subject to limited exceptions. The finance charge and APR, more than other disclosures, enable consumers to understand the cost of the credit and to comparison shop for credit. A creditor's failure to disclose those values accurately can result in the creditor paying significant monetary damages, either as a result of

a class action lawsuit or when its regulatory agency orders it to reimburse consumers for violating the law.

If an APR or finance charge is disclosed incorrectly, the error is not, in itself, a violation of the regulation if

- the error resulted from a corresponding error in a calculation tool used in good faith by the financial institution.
- upon discovery of the error, the financial institution promptly discontinues use of that calculation tool for disclosure purposes.
- the financial institution notifies the CFPB in writing of the error in the calculation tool.

When a financial institution claims a calculation tool was used in good faith, the financial institution assumes a reasonable degree of responsibility for ensuring that the tool in question provides the accuracy required by the regulation. For example, the financial institution might verify the results obtained using the tool by comparing those results to the figures obtained by using another calculation tool. The financial institution might also verify that the tool, if it is designed to operate under the actuarial method, produces figures similar to those provided by the examples in appendix J to the regulation. The calculation tool should be checked for accuracy before it is first used and periodically thereafter.

Subpart B—Open-End Credit

Time of Disclosures (Periodic Statements)—12 CFR 1026.5(b)

For credit card accounts under an open-end (not home-secured) consumer credit plan, creditors must adopt reasonable procedures designed to ensure that periodic statements are mailed or delivered at least 21 days before the payment due date disclosed on the periodic statement and that payments are not treated as late for any purpose if they are received within 21 days after mailing or delivery of the statement. In addition, for all open-end consumer credit accounts with grace periods, creditors must adopt reasonable procedures designed to ensure that periodic statements are mailed or delivered at least 21 days before the date on which a grace period (if any) expires and that finance charges are not imposed as a result of the loss of a grace period if a payment is received within 21 days after mailing or delivery of a statement. For purposes of this requirement, “grace period” is defined as a period within which any credit extended may be repaid without incurring a finance charge due to a periodic interest rate. For non-credit-card open-end consumer plans without a grace period, creditors must adopt reasonable policies and procedures designed to ensure that periodic statements are mailed or delivered at least 14 days before the date on which the required minimum periodic payment is due. Moreover, the creditor must adopt reasonable policies and procedures to ensure that it does not treat as late a required minimum periodic payment received by the creditor within 14 days after it has mailed or delivered the periodic statement.

Subsequent Disclosures (Open-End Credit)—12 CFR 1026.9

For open-end credit (not home-secured credit), the following applies:

Creditors are required to provide consumers with 45 days' advance written notice of rate increases and other significant changes to the terms of their credit card account agreements. The list of "significant changes" includes most fees and other terms that a consumer should be aware of before using the account. Examples of such fees and terms include

- penalty fees.
- transaction fees.
- fees imposed for the issuance or availability of the open-end plan.
- grace period.
- balance computation method.

Changes that do not require advance notice include

- reductions of finance charges.
- termination of account privileges resulting from an agreement involving a court proceeding.
- an increase in an APR upon expiration of a specified period of time previously disclosed in writing.
- increases in variable APRs that change according to an index not under the card issuer's control.
- rate increases due to the completion of, or failure of a consumer to comply with, the terms of a workout or temporary hardship arrangement, if those terms are disclosed before commencement of the arrangement.

A creditor may suspend account privileges, terminate an account, or lower the credit limit without notice. A creditor that lowers the credit limit, however, may not impose an over-limit fee or penalty rate as a result of exceeding the new credit limit without a 45-day advance notice that the credit limit has been reduced.

For significant changes in terms (with the exception of rate changes, increases in the minimum payment, certain changes in the balance computation method, and when the change results from the consumer's failure to make a required minimum periodic payment within 60 days after the due date), a creditor must also provide consumers the right to reject the change. If the consumer does reject the change before the effective date, the creditor may not apply the change to the account (12 CFR 1026.9(h)(2)(i)).

In addition, when a consumer rejects a change or increase, the creditor must not

- impose a fee or charge or treat the account as in default solely as a result of the rejection; or

- require repayment of the balance on the account using a method that is less beneficial to the consumer than one of the following methods: (1) the method of repayment before the rejection; (2) an amortization period of not less than five years from the date of rejection; or (3) a minimum periodic payment that includes a percentage of the balance that is not more than twice the percentage included before the date of rejection.

Finance Charge (Open-End Credit)—12 CFR 1026.6(a)(1) and 1026.6(b)(3)

Each finance charge imposed must be individually itemized, but the aggregate total amount of the finance charge need not be disclosed.

Determining the Balance and Computing the Finance Charge

The examiner must know how the financial institution computes the balance to which the periodic rate is applied. Common methods used are the previous balance method, the daily balance method, and the average daily balance method, which are described as follows:

- **Previous balance method.** The balance on which the periodic finance charge is computed is based on the balance outstanding at the start of the billing cycle. The periodic rate is multiplied by this balance to compute the finance charge.
- **Daily balance method.** A daily periodic rate is applied to either the balance on each day in the cycle or the sum of the balances on each of the days in the cycle. If a daily periodic rate is multiplied by the balance on each day in the billing cycle, the finance charge is the sum of the products. If the daily periodic rate is multiplied by the sum of all the daily balances, the result is the finance charge.
- **Average daily balance method.** The average daily balance is the sum of the daily balances (either including or excluding current transactions) divided by the number of days in the billing cycle. A periodic rate is then multiplied by the average daily balance to determine the finance charge. If the periodic rate is a daily one, the product of the rate multiplied by the average balance is multiplied by the number of days in the cycle.

In addition to those common methods, financial institutions have other ways of calculating the balance to which the periodic rate is applied. By reading the financial institution's explanation, the examiner should be able to calculate the balance to which the periodic rate was applied. In some cases, the examiner may need to obtain additional information from the financial institution to verify the explanation disclosed. Any inability to understand the disclosed explanation should be discussed with management, which should be reminded of Regulation Z's requirement that disclosures be clear and conspicuous.

When a balance is determined without first deducting all credits and payments made during the billing cycle, that fact and the amount of the credits and payments must be disclosed.

If the financial institution uses the daily balance method and applies a single daily periodic rate, disclosure of the balance to which the rate was applied may be stated as any of the following:

- **A balance for each day in the billing cycle.** The daily periodic rate is multiplied by the balance on each day, and the sum of the products is the finance charge.
- **A balance for each day in the billing cycle on which the balance in the account changes.** The finance charge is figured by the same method as discussed previously, but the statement shows the balance only for those days on which the balance changed.
- **The sum of the daily balances during the billing cycle.** The balance on which the finance charge is computed is the sum of all the daily balances in the billing cycle. The daily periodic rate is multiplied by that balance to determine the finance charge.
- **The average daily balance during the billing cycle.** If this is stated, the financial institution may, at its option, explain that the average daily balance is or can be multiplied by the number of days in the billing cycle and the periodic rate applied to the product to determine the amount of interest.

If the financial institution uses the daily balance method, but applies two or more daily periodic rates, the sum of the daily balances may not be used. Acceptable ways of disclosing the balances include

- a balance for each day in the billing cycle;
- a balance for each day in the billing cycle on which the balance in the account changes; or
- two or more average daily balances. If the average daily balances are stated, the financial institution may, at its option, explain that interest is or may be determined by (1) multiplying each of the average daily balances by the number of days in the billing cycle (or if the daily rate varied during the cycle), (2) by multiplying each of the results by the applicable daily periodic rate, and (3) adding these products together.

In explaining the method used to find the balance on which the finance charge is computed, the financial institution is not required to reveal how it allocates payments or credits. That information may be disclosed as additional information, but all required information must be clear and conspicuous.

Note: 12 CFR 1026.54 prohibits a credit card issuer from calculating finance charges based on balances for days in previous billing cycles as a result of the loss of a grace period (a practice sometimes referred to as “double-cycle billing”).

Finance Charge Resulting From Two or More Periodic Rates

Some financial institutions use more than one periodic rate to compute the finance charge. For example, one rate may apply to balances up to a certain amount and another rate to balances more than that amount. If two or more periodic rates apply, the financial institution must disclose all rates and conditions. The range of balances to which each rate applies also must be disclosed. It is not necessary, however, to break the finance charge into separate components based on the different rates.

Annual Percentage Rate (Open-End Credit)

The disclosed APR on an open-end credit account is accurate if it is within one-eighth of 1 percentage point of the APR calculated under Regulation Z.

Determination of APR—12 CFR 1026.14

The basic method for determining the APR in open-end credit transactions involves multiplying each periodic rate by the number of periods in a year. This method is used in all types of open-end disclosures, including

- the corresponding APR in the initial disclosures.
- the corresponding APR on periodic statements.
- the APR in early disclosures for credit card accounts.
- the APR in early disclosures for home-equity plans.
- the APR in advertising.
- the APR in oral disclosures.

The corresponding APR is prospective, and it does not involve any particular finance charge or periodic balance.

A second method of calculating the APR is the quotient method. At a creditor's option, the quotient method may be disclosed on periodic statements for home-equity plans subject to 12 CFR 1026.40 (HELOCs).[5] The quotient method reflects the annualized equivalent of the rate that was actually applied during a cycle. This rate, also known as the effective APR, will differ from the corresponding APR if the creditor applies minimum, fixed, or transaction charges to the account during the cycle (12 CFR 1026.14(c)).

Brief Outline for Open-End Credit APR Calculations on Periodic Statements

Note: Assume monthly billing cycles for each of the calculations below.

I. Basic method for determining the APR in an open-end credit transaction. This is the corresponding APR (12 CFR 1026.14(b)).

A. Monthly rate x 12 = APR

II. Optional effective APR that may be disclosed on HELOC periodic statements.

A. APR when only periodic rates are imposed (12 CFR 1026.14(c)(1))

1. Monthly rate x 12 = APR

[5] If a creditor does not disclose the effective (or quotient method) APR on a HELOC periodic statement, it must instead disclose the charges (fees and interest) imposed as provided in 12 CFR 1026.7(a).

or

2. (Total finance charge / sum of the balances) x 12 = APR

B. APR when minimum or fixed charge, but not transaction charge, imposed (12 CFR 1026.14(c)(2))

1. (Total finance charge / amount of applicable balance[6]) x 12 = APR[7]

C. APR when the finance charge includes a charge related to a specific transaction (such as a cash advance fee), even if the total finance charge also includes any other minimum, fixed, or other charge not calculated using a periodic rate (12 CFR 1026.14(c)(3))

1. (Total finance charge / (all balances + other amounts on which a finance charge was imposed during the billing cycle without duplication[8]) x 12 = APR[9]

D. APR when the finance charge imposed during the billing cycle includes a minimum or fixed charge that does not exceed $.50 for a monthly or longer billing cycles (or pro rata part of $.50 for a billing cycle shorter than monthly) (12 CFR 1026.14(c)(4))

1. Monthly rate x 12 = APR

E. APR calculation when daily periodic rates are applicable if only the periodic rate is imposed or when a minimum or fixed charge (but not a transactional charge is imposed) (12 CFR 1026.14(d))

1. (Total finance charge / average daily balance) x 12 = APR

or

2. (Total finance charge / sum of daily balances) x 365 = APR

[6] The APR cannot be determined with this formula if the applicable balance is zero (12 CFR 1026.14(c)(2)).

[7] Loan fees, points, or similar finance charges that relate to the opening of the account must not be included in the calculation of the APR.

[8] The sum of the balances may include the average daily balance, adjusted balance, or previous balance method. When a portion of the finance charge is determined by application of one or more daily periodic rates, the sum of the balances also means the average of daily balances. See appendix F to Regulation Z.

[9] This calculation cannot be less than the highest periodic rate applied, expressed as an APR. Loan fees, points, or similar finance charges that relate to the opening of the account must not be included in the calculation of the APR.

Change in Terms Notices for Home Equity Plans Subject to 12 CFR 1026.40 and 1026.9(c)

Servicers are required to provide consumers with 15 days' advance written notice of a change to any term required to be disclosed under 12 CFR 1026.6(a) or when the required minimum periodic payment is increased. Notice is not required when the change involves a reduction of any component of a finance charge or other charge or when the change results from an agreement involving a court proceeding. If the creditor prohibits additional extensions of credit or reduces the credit limit in certain circumstances (if permitted by contract), a written notice must be provided no later than three business days after the action is taken and must include the specific reasons for the action. If the creditor requires the consumer to request reinstatement of credit privileges, the notice also must state that fact.

Timely Settlement of Estates—12 CFR 1026.11(c)

Issuers are required to establish procedures to ensure that any administrator of an estate can resolve the outstanding credit card balance of a deceased account holder in a timely manner. If an administrator requests the amount of the balance,

- the issuer is prohibited from imposing additional fees on the account;
- the issuer is required to disclose the amount of the balance to the administrator in a timely manner (safe harbor of 30 days); and
- and if the balance is paid in full within 30 days after disclosure of the balance, the issuer must waive or rebate any trailing or residual interest charges that accrued on the balance following the disclosure.

Minimum Payments—12 CFR 1026.7(b)(12)

For credit card accounts under an open-end credit plan, card issuers generally must disclose on periodic statements an estimate of the amount of time and the total cost (P + I) involved in paying the balance in full by making only the minimum payments, and an estimate of the monthly payment amount required to pay off the balance in 36 months and the total cost (P + I) of repaying the balance in 36 months. Card issuers also must disclose a minimum payment warning, and an estimate of the total interest that a consumer would save if that consumer repaid the balance in 36 months, instead of making minimum payments.

Subpart G—Special Rules Applicable to Credit Card Accounts and Open-End Credit Offered to College Students

Evaluation of the Consumer's Ability to Pay—12 CFR 1026.51

Regulation Z requires credit card issuers to consider a consumer's ability to pay before opening a new credit card account or increasing the credit limit for an existing credit card account. Additionally, the rule provides specific requirements that must be met before

opening a new credit card account or increasing the credit limit on an existing account when the consumer is under the age of 21.

When evaluating a consumer's ability to pay, credit card issuers must perform a review of a consumer's income or assets and current obligations. Issuers are permitted, however, to rely on information provided by the consumer. The rule does not require issuers to verify a consumer's statements; a creditor may base its determination of ability to repay on facts and circumstances known to the card issuer (Comment 1026.51(a)(1)(i)-2). A card issuer may also consider information obtained through any empirically derived, demonstrably and statistically sound model that reasonably estimates a consumer's income or assets.

Issuers may consider any income and assets to which the consumer has a reasonable expectation of access or may limit their consideration to the consumer's independent income and assets. The rule also requires that issuers consider at least one of the following:

- The ratio of the consumer's debt obligations to income;
- The ratio of the consumer's debt obligations to assets; or
- The income the consumer will have after paying debt obligations (i.e., residual income).

The rule also provides that it would be unreasonable for an issuer not to review any information about a consumer's income, assets, or current obligations, or to issue a credit card to a consumer who does not have any income or assets.

Because credit card accounts typically require consumers to make a minimum monthly payment that is a percentage of the total balance (plus, in some cases, accrued interest and fees), creditors are required to consider the consumer's ability to make the required minimum payments. Card issuers must also establish and maintain reasonable written policies and procedures to consider a consumer's income or assets and current obligations. Because the minimum payment is unknown at account opening, the rule requires that creditors use a reasonable method to estimate a consumer's minimum payment.

The regulation provides a safe harbor for issuers to estimate the required minimum periodic payment if the card issuer

- assumes utilization, from the first day of the billing cycle, of the full credit line that the issuer is considering offering to the consumer; and
- uses a minimum payment formula employed by the issuer for the product the issuer is considering offering to the consumer or, in the case of an existing account, the minimum payment formula that currently applies to that account, provided that
  - if the minimum payment formula includes interest charges, the card issuer estimates those charges using an interest rate that the issuer is considering offering to the consumer for purchases or, in the case of an existing account, the interest rate that currently applies to purchases; and
  - if the applicable minimum payment formula includes mandatory fees, the card issuer must assume that such fees have been charged to the account.

Specific Requirements for Underage Consumers—12 CFR 1026.51(b)(1)

Regulation Z prohibits the issuance of a credit card to a consumer who has not reached age 21 unless the consumer has submitted a written application and the creditor has

- information indicating that the underage consumer has an independent ability to make the required minimum payments on the account; or
- the signature of a cosigner, guarantor, or joint applicant who has reached age 21, who has the ability to repay debts (based on 12 CFR 1026.51) incurred by the underage consumer in connection with the account, and who assumes joint liability for all debts or secondary liability for any debts incurred before the underage consumer turns 21.

For credit line increases,

- if an account was opened based on the underage consumer's independent ability to repay, in order to increase the consumer's credit line before he or she turns 21, the issuer either must determine that the consumer has an independent ability to make the required minimum payments at the time of the contemplated increase or must obtain an agreement from a cosigner, guarantor, or joint applicant who is 21 or older and who has the ability to repay debts to assume liability for any debt incurred on the account.
- if the account was opened based on the ability of a cosigner over the age of 21 to pay, the issuer must obtain written consent from that cosigner before increasing the credit limit.

Limitations of Fees—12 CFR 1026.52

Limitations on Fees During First Year After Account Opening—12 CFR 1026.52(a)

During the first year after account opening, issuers are prohibited from requiring consumers to pay fees (other than fees for late payments, returned payments, and exceeding the credit limit) that in the aggregate exceed 25 percent of the initial credit limit in effect when the account is opened. An account is considered open no earlier than the date on which the account may first be used by the consumer to engage in transactions.

Note: The 25 percent limitation on fees does not apply to fees assessed before opening the account.

Limitations on Penalty Fees—12 CFR 1026.52(b)

TILA requires that penalty fees imposed by card issuers be reasonable and proportional to the violation of the account terms. Among other things, the regulation prohibits credit card issuers from charging a penalty fee of more than $26 for paying late or otherwise violating the account's terms for the first violation (or $37 for an additional violation of the same type during the same billing cycle or one of the next six billing cycles) unless the issuer

determines that a higher fee represents a reasonable proportion of the costs it incurs as a result of that type of violation and reevaluates that determination at least once every 12 months.

Credit card issuers are banned from charging penalty fees that exceed the dollar amount associated with the consumer's violation of the terms or other requirements of the credit card account. For example, card issuers are no longer permitted to charge a $39 fee when a consumer is late making a $20 minimum payment. Instead, in this example, the fee cannot exceed $20. The regulation also bans imposition of penalty fees when there is no dollar amount associated with the violation, such as "inactivity" fees based on the consumer's failure to use the account to make new purchases. It also prohibits issuers from charging multiple penalty fees based on a single late payment or other violation of the account terms.

Payment Allocation—12 CFR 1026.53

When different rates apply to different balances on a credit card account, issuers are generally required to allocate payments in excess of the minimum payment first to the balance with the highest APR, and then apply any remaining portion to the other balances in descending order based on the applicable APR.

For deferred interest programs, however, issuers must allocate excess payments first to the deferred interest balance during the last two billing cycles of the deferred interest period. In addition, during a deferred interest period, issuers are permitted (but not required) to allocate excess payments in the manner requested by the consumer.

For accounts with secured balances, issuers are permitted (but not required) to allocate excess payments to the secured balance if requested by the consumer.

Double-Cycle Billing and Partial Grace Period—12 CFR 1026.54

Issuers are generally prohibited from imposing finance charges on balances for days in previous billing cycles as a result of the loss of a grace period. In addition, when a consumer pays some, but not all, of a balance before the expiration of a grace period, an issuer is prohibited from imposing finance charges on the portion of the balance that has been repaid.

Restrictions on Applying Increased Rates to Existing Balances and Increasing Certain Fees and Charges—12 CFR 1026.55

Unless an exception applies, a card issuer must not increase an APR or a fee or charge required to be disclosed under 12 CFR 1026.6(b)(2)(ii), (b)(2)(iii), or (b)(2)(xii) on a credit card account. There are some general exceptions to the prohibition against applying increased rates to existing balances and increasing certain fees or charges:

- The rate or fee is a temporary or promotional rate or temporary fee or charge that lasts at least six months and is required to be disclosed under 12 CFR 1026.6(b)(2)(ii), (b)(2)(iii),

or (b)(2)(xii), provided that the card issuer complied with applicable disclosure requirements. Fees and charges required to be disclosed under 12 CFR 1026.6(b)(2)(ii), (b)(2)(iii), or (b)(2)(xii) are periodic fees for issuance or availability of an open-end plan (such as an annual fee); a fixed finance charge (and any minimum interest charge) that exceeds $1; or a charge for required insurance, debt cancellation, or debt suspension;

- The rate is increased due to the operation of an index available to the general public and not under the card issuer's control (i.e., the rate is a variable rate);
- The minimum payment has not been received within 60 days after the due date, provided that the card issuer complied with applicable disclosure requirements and adheres to certain requirements when a series of on-time payments is received;
- The consumer successfully completes or fails to comply with the terms of a workout arrangement, provided that card issuer complied with applicable disclosure requirements and adheres to certain requirements upon the completion or failure of the arrangement; and
- The APR on an existing balance or a fee or charge required to be disclosed under 12 CFR 1026.6(b)(2)(ii), (b)(2)(iii), or (b)(2)(xii) has been reduced pursuant to the Servicemembers Civil Relief Act (SCRA) or a similar federal or state statute or regulation. The creditor is permitted to increase the rate, fee, or charge once the SCRA ceases to apply, but only to the rate, fee, or charge that applied before the reduction.

Regulation Z's limitations on the application of increased rates and certain fees and charges to existing balances continue to apply when the account is closed, acquired by another institution through a merger or the sale of a credit card portfolio, or the balance is transferred to another credit account issued by the same creditor (or its affiliate or subsidiary).

Issuers are generally prevented from increasing the APR applicable to new transactions or a fee or charge subject to 12 CFR 1026.6(b)(2)(ii), (b)(2)(iii), or (b)(2)(xii) during the first year after an account is opened. After the first year, issuers are permitted to increase the APRs that apply to new transactions or a fee or charge subject to 12 CFR 1026.6(b)(2)(ii), (b)(2)(iii), or (b)(2)(xii) so long as the creditor complies with the regulation's 45-day advance notice requirement (12 CFR 1026.9).

Regulation Z's limitations on the application of increased rates to existing balances and limitations on the increase of certain fees or charges apply upon cessation of a waiver or rebate of interest, fees, or charges if the issuer promotes the waiver or rebate.

Fees for Transactions That Exceed the Credit Limit—12 CFR 1026.56

Consumer consent requirement: Regulation Z requires an issuer to obtain a consumer's express consent (or opt in) before the issuer may impose any fees on a consumer's credit card account for making an extension of credit that exceeds the account's credit limit. Before providing such consent, the consumer must be notified by the issuer of any fees that may be assessed for an over-the-limit transaction. If the consumer consents, the issuer is also required to provide written confirmation (or electronic confirmation if the consumer agrees) of the consumer's consent and a notice of the consumer's right to revoke that consent on the front page of any periodic statement that reflects the imposition of an over-the-limit fee.

Before obtaining a consumer's consent to the payment of over-the-limit transactions, the issuer must provide the consumer with a notice disclosing, among other things, the dollar amount of any charges that will be assessed for an over-the-limit transaction, as well as any increased rate that may apply if the consumer exceeds the credit limit. Issuers are prevented from assessing any over-the-limit fee or charge on an account unless the consumer consents to the payment of transactions that exceed the credit limit.

Prohibited practices: Even if the consumer has affirmatively consented to the issuer's payment of over-the-limit transactions, Regulation Z prohibits certain issuer practices in connection with the assessment of over-the-limit fees or charges. An issuer can only charge one over-the-limit fee or charge per billing cycle. In addition, an issuer cannot impose an over-the-limit fee on the account for the same transaction in more than three billing cycles. Furthermore, fees may not be imposed for the same transaction in the second or third billing cycle unless the consumer has failed to reduce the account balance below the credit limit by the payment due date in that cycle.

Regulation Z also prohibits unfair or deceptive acts or practices in connection with the manipulation of credit limits in order to increase over-the-limit fees or other penalty charges.

Specifically, issuers are prohibited from engaging in three practices:

- Assessing an over-the-limit fee because the creditor failed to promptly replenish the consumer's available credit.
- Conditioning the amount of available credit on the consumer's consent to the payment of over-the-limit transactions (e.g., opting in to an over-the-limit service to obtain a higher credit limit).
- Imposing any over-the-limit fee if the credit limit is exceeded solely because of the issuer's assessment of accrued interest charges or fees on the consumer's account.

Special Rules for Marketing to Students—12 CFR 1026.57

Regulation Z establishes several requirements related to the marketing of credit cards and other open-end consumer credit plans to students at an institution of higher education. The regulation limits a creditor's ability to offer a college student any tangible item to induce the student to apply for or participate in an open-end consumer credit plan offered by the creditor.

Specifically, Regulation Z prohibits a card issuer from offering tangible items as an inducement

- on the campus of an institution of higher education;
- near the campus of an institution of higher education; or
- at an event sponsored by or related to an institution of higher education.

A tangible item means physical items, such as gift cards, T-shirts, or magazine subscriptions, but does not include non-physical items such as discounts, reward points, or promotional

credit terms. With respect to offers "near" the campus, the commentary to the regulation states that a location that is within 1,000 feet of the border of the campus is considered near the campus.

Regulation Z also requires card issuers to submit an annual report to the CFPB containing the terms and conditions of business, marketing, or promotional agreements with an institution of higher education or an alumni organization or foundation affiliated with an institution of higher education.

Online Disclosure of Credit Card Agreements—12 CFR 1026.58

The regulation requires that issuers post credit card agreements on their Web sites and submit those agreements to the CFPB for posting on a Web site maintained by the CFPB. There are three exceptions for when issuers are not required to provide statements to the CFPB:

- The issuer has fewer than 10,000 open credit card accounts.
- The agreement currently is not offered to the public and the agreement is used only for one or more private-label credit card plans with credit cards usable only at a single merchant or group of affiliated merchants and that involves fewer than 10,000 open accounts.
- The agreement currently is not offered to the public and the agreement is for one or more plans offered to test a new product offered only to a limited group of consumers for a limited time that involves fewer than 10,000 open accounts.

Reevaluation of Rate Increases—12 CFR 1026.59

For any rate increase imposed on or after January 1, 2009, that requires 45 days' advance notice, the regulation requires card issuers to review the account no less frequently than once every six months and, if appropriate based on that review, reduce the APR. The requirement to reevaluate rate increases applies both to increases in APRs based on consumer-specific factors, such as changes in the consumer's creditworthiness, and to increases in APRs imposed based on factors that are not specific to the consumer, such as changes in market conditions or the issuer's cost of funds. If based on its review a card issuer is required to reduce the rate applicable to an account, the regulation requires that the rate be reduced within 45 days after completion of the evaluation.

This review must consider either the same factors on which the increase was originally based or the factors the card issuer currently considers in determining the APR applicable to similar new credit card accounts.

Advertising Rules for Open-End Plans—12 CFR 1026.16

Regulation Z requires that loan product advertisements provide accurate and balanced information, in a clear and conspicuous manner, about rates, monthly payments, and other

loan features. The advertising rules ban several deceptive or misleading advertising practices, including representations that a rate or payment is "fixed" when, in fact, it can change.

If an advertisement for credit states specific credit terms, it must state only those terms that actually are or will be arranged or offered by the creditor. If any finance charges or other charges are set forth in an advertisement, the advertisement must also clearly and conspicuously state the following:

- Any minimum, fixed, transaction, activity, or similar charge that is a finance charge under 12 CFR 1026.4 that could be imposed;
- Any periodic rate that may be applied expressed as an APR as determined under 12 CFR 1026.14(b). If the plan provides for a variable periodic rate, that fact must be disclosed; and
- Any membership or participation fee that could be imposed.

If any finance charges or other charge or payment terms are set forth, affirmatively or negatively, in an advertisement for a home-equity plan subject to the requirements of 12 CFR 1026.40, the advertisement also must clearly and conspicuously set forth the following:

- Any loan fee that is a percentage of the credit limit under the plan and an estimate of any other fees imposed for opening the plan, stated as a single dollar amount or a reasonable range;
- Any periodic rate used to compute the finance charge, expressed as an APR as determined under 12 CFR 1026.14(b); and
- The maximum APR that may be imposed in a variable-rate plan.

Regulation Z's open-end home-equity plan advertising rules include a clear and conspicuous standard for home-equity plan advertisements, consistent with the approach taken in the advertising rules for consumer leases under Regulation M. Commentary provisions clarify how the clear and conspicuous standard applies to advertisements of home-equity plans with promotional rates or payments, and to Internet, television, and oral advertisements of home-equity plans. The regulation allows alternative disclosures for television and radio advertisements for home-equity plans. The regulation also requires that advertisements adequately disclose not only promotional plan terms but also the rates or payments that will apply over the term of the plan.

Regulation Z also contains provisions implementing the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, which requires disclosure of the tax implications of certain home-equity plans.

Subpart C—Closed-End Credit

Timing of Disclosures—12 CFR 1026.17(b) and 1026.19

Creditors are generally required to make disclosures required by TILA before the consummation of the transaction. Residential mortgage transactions have special timing requirements that include providing disclosures to consumers no later than the third business day after receipt of the consumer's application. Creditors also are required to provide consumers with updated disclosures three days before consummation of the mortgage transaction if certain terms of the mortgage change. Finally, certain variable-rate transactions secured by a dwelling have additional disclosure obligations with specific timing requirements both before and after consummation (see 12 CFR 1026.20(c) and (d) later in this section).

Finance Charge (Closed-End Credit)—12 CFR 1026.17(a)

The aggregate total amount of the finance charge must be disclosed. Each finance charge imposed need not be individually itemized and must not be itemized with the segregated disclosures.

Annual Percentage Rate (Closed-End Credit)—12 CFR 1026.22

Accuracy Tolerances

The disclosed APR on a closed-end transaction is accurate for

- regular transactions (which include any single advance transaction with equal payments and equal payment periods, or an irregular first payment period and/or a first or last irregular payment), if it is within one-eighth of 1 percentage point of the APR calculated under Regulation Z (12 CFR 1026.22(a)(2)).
- irregular transactions (which include multiple advance transactions and other transactions not considered regular), if it is within one-quarter of 1 percentage point of the APR calculated under Regulation Z (12 CFR 1026.22(a)(3)).
- mortgage transactions, if it is within one-eighth of 1 percentage point for regular transactions or one-quarter of 1 percentage point for irregular transactions or if
  - the rate results from the disclosed finance charge, and the disclosed finance is considered accurate under 12 CFR 1026.18(d)(1) or 1026.23(g) or (h) (12 CFR 1026.22(a)(4)); or
  - the disclosed finance charge is calculated incorrectly but is considered accurate under 12 CFR 1026.18(d)(1) or 1026.23(g) or (h) and either
    - the finance charge is understated and the disclosed APR is also understated but is closer to the actual APR than the APR that would be considered accurate under 12 CFR 1026.22(a)(4); or

- the disclosed finance charge is overstated and the disclosed APR is also overstated but is closer to the actual APR than the APR that would be considered accurate under 12 CFR 1026.22(a)(4).

For example, in an irregular transaction subject to a tolerance of one-quarter of 1 percentage point, if the actual APR is 9.00 percent and a $75 omission from the finance charge corresponds to a rate of 8.50 percent that is considered accurate under 12 CFR 1026.22(a)(4), a disclosed APR of 8.65 percent is considered accurate under 12 CFR 1026.22(a)(5). A disclosed APR less than 8.50 percent or more than 9.25 percent, however, would not be considered accurate.

Refer to the "Accuracy Tolerance" charts in appendix C of this booklet.

Note: There is an additional tolerance for mortgage loans when the disclosed finance charge is calculated incorrectly but is considered accurate under 12 CFR 1026.18(d)(1) or 12 CFR 1026.23(g) or (h) (12 CFR 1026.22(a)(5)).

Construction Loans—12 CFR 1026.17(c)(6) and Appendix D

Construction and certain other multiple advance loans pose special problems in computing the finance charge and APR. In many instances, the amount and dates of advances are not predictable with certainty since they depend on the progress of the work. Regulation Z provides that the APR and finance charge for such loans may be estimated for disclosure.

At its option, the financial institution may rely on the representations of other parties to acquire necessary information (for example, it might look to the consumer for the dates of advances). In addition, if either the amounts or dates of advances are unknown (even if some of them are known), the financial institution may, at its option, use appendix D to the regulation to make calculations and disclosures. The finance charge and payment schedule obtained through appendix D may be used with volume one of the CFPB's APR tables or with any other appropriate computation tool to determine the APR. If the financial institution elects not to use appendix D, or if appendix D cannot be applied to a loan (e.g., appendix D does not apply to a combined construction-permanent loan if the payments for the permanent loan begin during the construction period), the financial institution must make its estimates under 12 CFR 1026.17(c)(2) and calculate the APR using multiple advance formulas.

On loans involving a series of advances under an agreement to extend credit up to a certain amount, a financial institution may treat all of the advances as a single transaction or disclose each advance as a separate transaction. If advances are disclosed separately, disclosures must be provided before each advance occurs, with the disclosures for the first advance provided before consummation.

In a transaction that finances the construction of a dwelling that may or will be permanently financed by the same financial institution, the construction-permanent financing phases may be disclosed in one of the following three ways:

- As a single transaction, with one disclosure combining both phases.
- As two separate transactions, with one disclosure for each phase.
- As more than two transactions, with one disclosure for each advance and one for the permanent financing phase.

If two or more disclosures are furnished, buyer's points or similar amounts imposed on the consumer may be allocated among the transactions in any manner the financial institution chooses, as long as the charges are not applied more than once. In addition, if the financial institution chooses to give two sets of disclosures and the consumer is obligated for both construction and permanent phases at the outset, both sets of disclosures must be given to the consumer initially, before consummation of each transaction occurs.

If the creditor requires interest reserves for construction loans, special appendix D rules apply that can make the disclosure calculations quite complicated. The amount of interest reserves included in the commitment amount must not be treated as a prepaid finance charge.

If the lender uses appendix D for construction-only loans with required interest reserves, the lender must estimate construction interest using the interest reserve formula in appendix D. The lender's own interest reserve values must be completely disregarded for disclosure purposes.

If the lender uses appendix D for combination construction-permanent loans, the calculations can be much more complex. Appendix D is used to estimate the construction interest, which is then measured against the lender's contractual interest reserves.

If the interest reserve portion of the lender's contractual commitment amount exceeds the amount of construction interest estimated under appendix D, the excess value is considered part of the amount financed if the lender has contracted to disburse those amounts whether or not they ultimately are needed to pay for accrued construction interest. If the lender will not disburse the excess amount if it is not needed to pay for accrued construction interest, the excess amount must be ignored for disclosure purposes.

Calculating the Annual Percentage Rate—12 CFR 1026.22

The APR must be determined under one of the following:

- The actuarial method, which is defined by Regulation Z and explained in appendix J to the regulation.
- The U.S. Rule, which is permitted by Regulation Z and briefly explained in appendix J to the regulation. The U.S. Rule is an accrual method that seems to have first surfaced officially in an early nineteenth-century U.S. Supreme Court case, *Story v. Livingston*, 38 U.S. 359 (1839).

Whichever method is used by the financial institution, the rate calculated will be accurate if it is able to "amortize" the amount financed while it generates the finance charge under the accrual method selected. Financial institutions also may rely on minor irregularities and

accuracy tolerances in the regulation, both of which effectively permit somewhat imprecise, but still legal, APRs to be disclosed.

360-Day and 365-Day Years—12 CFR 1026.17(c)(3)

Confusion often arises over whether to use the 360-day or 365-day year in computing interest, particularly when the finance charge is computed by applying a daily rate to an unpaid balance. Many single-payment loans or loans payable on demand are in this category. There are also loans in this category that call for periodic installment payments. Regulation Z does not require the use of one method of interest computation in preference to another (although state law may). It does, however, permit financial institutions to disregard the fact that months have different numbers of days when calculating and making disclosures. This means financial institutions may base their disclosures on calculation tools that assume all months have an equal number of days, even if their practice is to take account of the variations in months to collect interest.

For example, a financial institution may calculate disclosures using a financial calculator based on a 360-day year with 30-day months, when, in fact, it collects interest by applying a factor of 1/365 of the annual interest rate to actual days.

Disclosure violations may occur, however, when a financial institution applies a daily interest factor based on a 360-day year to the actual number of days between payments. In those situations, the financial institution must disclose the higher values of the finance charge, the APR, and the payment schedule resulting from this practice.

For example, a 12 percent simple interest rate divided by 360 days results in a daily rate of .033333 percent. If no charges are imposed except interest, and the amount financed is the same as the loan amount, applying the daily rate on a daily basis for a 365-day year on a $10,000 one-year, single payment, unsecured loan results in an APR of 12.17 percent (.033333% x 365 = 12.17%), and a finance charge of $1,216.67. There would be a violation if the APR were disclosed as 12 percent or if the finance charge were disclosed as $1,200 (12% x $10,000).

If there are no other charges except interest, however, the application of a 360-day year daily rate over 365 days on a regular loan would not result in an APR in excess of the one-eighth of 1 percentage point APR tolerance unless the nominal interest rate is greater than 9 percent. For irregular loans, with one-quarter of 1 percentage point APR tolerance, the nominal interest rate would have to be greater than 18 percent to exceed the tolerance.

Variable-Rate Information—12 CFR 1026.18(f) and Commentary to 12 CFR 1026.17(c)

If the terms of the legal obligation allow the financial institution, after consummation of the transaction, to increase the APR, the financial institution must furnish the consumer with certain information on variable rates. Graduated payment mortgages and step-rate transactions without a variable-rate feature are not considered variable-rate transactions. In

addition, variable-rate disclosures are not applicable to rate increases resulting from delinquency, default, assumption, acceleration, or transfer of the collateral.

Some of the more important transaction-specific variable-rate disclosure requirements follow:

- Disclosures for variable-rate loans must be given for the full term of the transaction and must be based on the terms in effect at the time of consummation.
- If the variable-rate transaction includes either a seller buy-down that is reflected in a contract or a consumer buy-down, the disclosed APR should be a composite rate based on the lower rate for the buy-down period and the rate that is the basis for the variable-rate feature for the remainder of the term.
- If the initial rate is not determined by the index or formula used to make later interest rate adjustments, as in a discounted variable-rate transaction, the disclosed APR must reflect a composite rate based on the initial rate for as long as it is applied and, for the remainder of the term, the rate that would have been applied using the index or formula at the time of consummation (i.e., the fully indexed rate).
  - If a loan contains a rate or payment cap that would prevent the initial rate or payment, at the time of the adjustment, from changing to the fully indexed rate, the effect of that rate or payment cap needs to be reflected in the disclosures.
  - The index at consummation need not be used if the contract provides a delay in the implementation of changes in an index value (e.g., the contract indicates that future rate changes are based on the index value in effect for some specified period, such as 45 days before the change date). Instead, the financial institution may use any rate from the date of consummation back to the beginning of the specified period (e.g., during the previous 45-day period).
- If the initial interest rate is set according to the index or formula used for later adjustments, but is set at a value as of a date before consummation, disclosures should be based on the initial interest rate, even though the index may have changed by the consummation date.

For variable-rate loans that are not secured by the consumer's principal dwelling or that are secured by the consumer's principal dwelling but have a term of one year or less, creditors must disclose the circumstances under which the rate may increase, any limitations on the increase, the effect of an increase, and an example of the payment terms that would result from an increase (12 CFR 1026.18(f)(1)).

For variable-rate consumer loans secured by the consumer's principal dwelling and having a maturity of more than one year, creditors must state that the loan has a variable-rate feature and that the disclosures were previously given (12 CFR 1026.18(f)(2)). Extensive disclosures about the loan program are provided when consumers apply for such a loan (12 CFR 1026.19(b)), and throughout the loan term when the rate or payment amount is changed (12 CFR 1026.20(c)).

Payment Schedule—12 CFR 1026.18(g)

The disclosed payment schedule must reflect all components of the finance charge. It includes all payments scheduled to repay loan principal, interest on the loan, and any other finance charge payable by the consumer after consummation of the transaction.

Any finance charge paid separately before or at consummation (e.g., odd days' interest), however, is not part of the payment schedule. It is a prepaid finance charge that must be reflected as a reduction in the value of the amount financed.

At the creditor's option, the payment schedule may include amounts beyond the amount financed and finance charge (e.g., certain insurance premiums or real estate escrow amounts such as taxes added to payments). When calculating the APR, however, the creditor must disregard such amounts.

If the obligation is a renewable balloon payment instrument that unconditionally obligates the financial institution to renew the short-term loan at the consumer's option or to renew the loan subject to conditions within the consumer's control, the payment schedule must be disclosed using the longer term of the renewal period or periods. The long-term loan must be disclosed with a variable-rate feature.

If there are no renewal conditions or if the financial institution guarantees to renew the obligation in a refinancing, the payment schedule must be disclosed using the shorter balloon payment term. The short-term loan must be disclosed as a fixed-rate loan, unless it contains a variable-rate feature during the initial loan term.

Amount Financed—12 CFR 1026.18(b)

The amount financed is defined as the net amount of credit extended for the consumer's use. It should not be assumed that the amount financed under the regulation is equivalent to the note amount, proceeds, or principal amount of the loan. The amount financed normally equals the total of payments less the finance charge.

To calculate the amount financed, all amounts and charges connected with the transaction, either paid separately or included in the note amount, must first be identified. Any prepaid, precomputed, or other finance charge must then be determined.

The amount financed must not include any finance charges. If finance charges have been included in the obligation (either prepaid or precomputed), they must be subtracted from the face amount of the obligation when determining the amount financed. The resulting value must be reduced further by an amount equal to any prepaid finance charge paid separately. The final resulting value is the amount financed.

When calculating the amount financed, finance charges (whether in the note amount or paid separately) should not be subtracted more than once from the total amount of an obligation. Charges not in the note amount and not included in the finance charge (e.g., an appraisal fee

paid separately in cash on a real estate loan) are not required to be disclosed under Regulation Z and must not be included in the amount financed.

In a multiple advance construction loan, proceeds placed in a temporary escrow account and awaiting disbursement in draws to the developer are not considered part of the amount financed until actually disbursed. Thus, if the entire commitment amount is disbursed into the lender's escrow account, the lender must not base disclosures on the assumption that all funds were disbursed immediately, even if the lender pays interest on the escrowed funds.

Required Deposit—12 CFR 1026.18(r)

A required deposit, with certain exceptions, is one that the financial institution requires the consumer to maintain as a condition of the specific credit transaction. It can include a compensating balance or a deposit balance that secures the loan. The effect of a required deposit is not reflected in the APR. In addition, a required deposit is not a finance charge since it is eventually released to the consumer. A deposit that earns at least 5 percent per year need not be considered a required deposit.

Calculating the Amount Financed

Consider the following example:

A consumer signs a note secured by real property in the amount of $5,435. The note amount comprises $5,000 in proceeds disbursed to the consumer, $400 in precomputed interest, $25 paid to a credit reporting agency for a credit report, and a $10 service charge. Additionally, the consumer pays a $50 loan fee separately in cash at consummation. The consumer has no other debt with the financial institution. The amount financed is $4,975.

The amount financed may be calculated by first subtracting all finance charges included in the note amount ($5,435 - $400 - $10 = $5,025). The $25 credit report fee is not a finance charge because the loan is secured by real property. The $5,025 is further reduced by the amount of prepaid finance charges paid separately, for an amount financed of $5,025 - $50 = $4,975. The answer is the same whether finance charges included in the obligation are considered prepaid or precomputed finance charges.

The financial institution may treat the $10 service charge as an addition to the loan amount and not as a prepaid finance charge. If it does, the loan principal would be $5,000. The $5,000 loan principal does not include either the $400 or the $10 precomputed finance charge in the note. The loan principal is increased by other amounts that are financed and are not part of the finance charge (the $25 credit report fee) and reduced by any prepaid finance charges (the $50 loan fee, not the $10 service charge) to arrive at the amount financed of $5,000 + $25 - $50 = $4,975.

Other Calculations

The financial institution may treat the $10 service charge as a prepaid finance charge. If it does, the loan principal would be $5,010. The $5,010 loan principal does not include the $400 precomputed finance charge. The loan principal is increased by other amounts that are financed and are not part of the finance charge (the $25 credit report fee) and is reduced by any prepaid finance charges (the $50 loan fee and the $10 service charge withheld from loan proceeds) to arrive at the same amount financed of $5,010 + $25 - $50- $10 = $4,975.

Appendix C of this booklet contains five charts that show how accuracy tolerances apply to finance charges and APRs for disclosure and reimbursement purposes:

- "Closed-End Credit: Finance Charge Accuracy Tolerances"
- "Closed-End Credit: Accuracy and Reimbursement Tolerances for Understated Finance Charges"
- "Closed-End Credit: Accuracy Tolerances for Overstated Finance Charges"
- "Closed-End Credit: Accuracy Tolerances for Overstated APRs"
- "Closed-End Credit: Accuracy and Reimbursement Tolerances for Understated APRs"

Refinancings—12 CFR 1026.20

When an obligation is satisfied and replaced by a new obligation to the original financial institution (or a holder or servicer of the original obligation) and is undertaken by the same consumer, it must be treated as a refinancing for which a complete set of new disclosures must be furnished. A refinancing may involve the consolidation of several existing obligations, disbursement of new money to the consumer, or the rescheduling of payments under an existing obligation. In any form, the new obligation must completely replace the earlier one to be considered a refinancing under the regulation. The finance charge on the new disclosure must include any unearned portion of the old finance charge that is not credited to the existing obligation (12 CFR 1026.20(a)).

The following transactions are not considered refinancings even if the existing obligation is satisfied and replaced by a new obligation undertaken by the same consumer:

- A renewal of an obligation with a single payment of P + I or with periodic interest payments and a final payment of principal with no change in the original terms.
- An APR reduction with a corresponding change in the payment schedule.
- An agreement involving a court proceeding.
- Changes in credit terms arising from the consumer's default or delinquency.
- The renewal of optional insurance purchased by the consumer and added to an existing transaction, if required disclosures were provided for the initial purchase of the insurance.

Even if it is not accomplished by the cancellation of the old obligation and substitution of a new one, however, a new transaction requiring that new disclosures be made results if the financial institution

- increases the rate based on a variable-rate feature that was not previously disclosed; or
- adds a variable-rate feature to the obligation.

If, at the time a loan is renewed, the rate is increased, the increase is not considered a variable-rate feature. It is the cost of renewal, similar to a flat fee, as long as the new rate remains fixed during the remaining life of the loan. If the original debt is not canceled in connection with such a renewal, the regulation does not require new disclosures. In addition, changing the index of a variable-rate transaction to a comparable index is not considered adding a variable-rate feature to the obligation.

Refinancing of Non-Standard Mortgages—12 CFR 1026.43(d)

12 CFR 1026.43(d) provides special rules for refinancing a "non-standard mortgage" into a "standard mortgage." Subpart E establishes the requirements for refinancing a "non-standard" mortgage.

Adjustable Rate Mortgage Disclosures—12 CFR 1026.20

Disclosure of Initial Rate Change for Adjustable Rate Mortgages—12 CFR 1026.20(d)

Creditors, assignees, or servicers[10] (referred to collectively as creditors) of closed-end ARMs secured by the consumer's principal dwelling and with terms of more than one year are generally required to provide consumers with certain information pertaining to the ARM's initial rate change.[11] This information must be provided in a disclosure that is separate from all other documents, and the disclosure must be provided between 210 and 240 days before the first payment at the adjusted rate is due. If the first payment at a new rate is due within the first 210 days after consummation, the creditor must provide the rate change disclosure at consummation.

Disclosures required under this section must provide consumers with information related to the timing and nature of the rate change. If the new rate pursuant to the change disclosed is not known and the creditor provides an estimate, the rate must be identified as an estimate. If the creditor is using an estimate, it must be based on the index within 15 business days before the date of the disclosure. The calculation is made using the index reported in the source of information that the creditor uses in the explanation of how the interest rate is determined.

Disclosures required under 12 CFR 1026.20(d) must also include these items, among others:

- The date of the disclosure.

[10] Creditors, assignees, and servicers are all subject to the requirements of this section (12 CFR 1026.20(d)). Creditors, assignees, and servicers may decide among themselves which of them will provide the required disclosures. Establishing a business relationship when one party agrees to provide disclosures on behalf of the other parties does not absolve the other parties from their legal obligations.

[11] Exemptions to disclosure requirements are covered in this booklet's section titled "Exemptions to the Adjustable Rate Mortgage Disclosure Requirements—12 CFR 1026.20(c)(1)(ii) and (d)(1)(ii)."

- A statement explaining that the time period that the current rate has been in effect is ending, that the current rate is expiring, and that a change in the rate may result in a change in the required mortgage payment; providing the effective date of the change and a schedule of any future changes; and describing any other changes to the loan terms, features, or options taking effect on the same date (including expiration of interest-only or payment-option features).
- A table containing the current and new interest rates, the current and new payments, including the date the first new payment is due, and for interest-only or negative amortization loans, the amount of the current and new payment allocated to principal, interest, and escrow (if applicable).
  Note: The new payment allocation disclosed is the expected payment allocation for the first payment for which the new interest rate will apply.
- An explanation of how the interest rate is determined, including (among other things) an explanation of the index or formula used to determine the new rate and the margin.
- Any limitations on the interest rate or payment increase for each scheduled increase and over the life of the loan. Creditors must also include a statement regarding the extent to which such limitations result in foregone interest rate increases and the earliest date such foregone interest rate increases may apply to future interest rate adjustments.
- An explanation of how the new payment is determined, including an explanation of the index or formula used to determine the new rate, including the margin, the expected loan balance on the date of the rate adjustment, and the remaining loan term or any changes to the term caused by the rate change.
- If the creditor is using an estimated rate or payment, a statement that the actual new interest rate and new payment will be provided to the consumer between two and four months before the first payment at the new rate.
- For negative amortization loans, creditors must provide a statement indicating that the new payment will not be allocated to pay loan principal and will not reduce the balance of the loan; instead, the payment will only apply to part of the interest, thereby increasing the balance of the loan.
- A statement indicating the circumstances under which any prepayment penalty may be imposed and the time period during which it may be imposed, and a statement that the consumer may contact the servicer for additional information, including the maximum amount of the penalty that may be charged to the consumer.
- The telephone number of the creditor, assignee, or servicer for use if the consumer anticipates that he or she may not be able to make the new payments.
- A statement providing specified alternatives (which include refinancing, selling the property, loan modification, and forbearance) available if the consumer anticipates being unable to make the new payment.
- A Web site address for either the CFPB's or the U.S. Department of Housing and Urban Development's (HUD) list of homeownership counselors and counseling organizations, the HUD toll-free telephone number to access the HUD list of homeownership counselors and counseling organizations, and the CFPB's Web site address for state housing finance authorities' contact information.

For more information pertaining to the required format of the disclosures required under 12 CFR 1026.20(d), please see 12 CFR 1026.20(d)(3) and the model and sample forms H-4(D)(3) and (4) in appendix H to the regulation.

Disclosure of Rate Adjustments Resulting in Payment Changes—12 CFR 1026.20(c)

Creditors[12] of ARMs secured by a consumer's principal dwelling with a term greater than one year are generally required to provide consumers with disclosures before the adjustment of the interest rate on the mortgage,[13] if the interest rate change will result in a payment change as follows:

- For ARMs that have payment changes along with a rate change, disclosures must be provided to consumers between 60 and 120 days before the first payment at the new amount is due.
- For ARMs that have payment changes in connection with a uniformly scheduled interest rate adjustment occurring every 60 days (or more frequently), the disclosures must be provided between 25 and 120 days before the first payment at the new amount is due.
- For ARMs originated before January 10, 2015, for which the contract requires the adjusted interest and payment to be calculated based on an index that is available on a date less than 45 days before the adjustment date, disclosures must be provided between 25 and 120 days before the first payment at the new amount is required.
- For ARMs that have the first adjustment occurring within 60 days of consummation and the new interest rate disclosed at consummation was an estimate, the disclosures must be provided as soon as practicable, but no less than 25 days before the first payment at the new amount is due.

Disclosures required under 12 CFR 1026.20(c) must contain specific information, which includes these items, among others:

- A statement explaining that the time period during which the consumer's current rate has been in effect is ending and that the rate and payment will change; when the interest rate will change; dates when additional interest rate adjustments are scheduled to occur; and any other change in loan terms or features that take effect on the same date that the interest rate and payment change, such as an expiration of interest-only treatment or payment-option feature.
- A table explaining the current and new interest rates; the current and new payments, including the date the new payment is due; and for interest-only or negative amortizing

[12] Creditors, assignees, and servicers are all subject to the requirements of 12 CFR 1026.20(c). Creditors, assignees, and servicers may decide among themselves which of them will provide the required disclosures. Establishing a business relationship when one party agrees to provide disclosures on behalf of the other parties does not absolve the other parties from their legal obligations.

[13] Exemptions to disclosure requirements are covered in this booklet's section titled "Exemptions to the Adjustable Rate Mortgage Disclosure Requirements—12 CFR 1026.20(c)(1)(ii) and (d)(1)(ii)."

loans, the amount of the current and new payment allocated to principal, interest, and amounts for escrow (if applicable).

- An explanation of how the new interest rate is determined, including (among other things) the index or formula used to determine the new rate and the margin, and any application of previously foregone interest rate increases from past adjustments.
- Any limitations on the interest rate and payment increase for each scheduled increase for the duration of the loan. Creditors must also include a statement regarding the extent to which such limitations result in foregone interest rate increases and the earliest date such foregone interest rate increases may apply to future interest rate adjustments.
- An explanation of how the new payment is determined, including an explanation of the index or formula used to determine the new rate, including the margin, the expected loan balance on the date of the rate adjustment, and the remaining loan term or any changes to the term caused by the rate change.
- For negative amortization loans, creditors must provide a statement indicating that the new payment will not reduce the balance of the loan; rather, the payment will only apply to part of the interest, thereby increasing the amount of principal.
- A statement indicating the circumstances under which any prepayment penalty may be imposed, the time period during which it may be imposed, and a statement that the consumer may contact the servicer for additional information, including the maximum amount of the penalty that may be charged to the consumer.

For more information pertaining to the required format of the disclosures required under 12 CFR 1026.20(c), please see 12 CFR 1026.20(c)(3) and the model and sample forms H-4(D)(1) and (2) in appendix H to the regulation.

Exemptions to the Adjustable Rate Mortgage Disclosure Requirements—12 CFR 1026.20(c)(1)(ii) and (d)(1)(ii)

Disclosures under 12 CFR 1026.20(c) and (d) are not required for ARMs with a term of one year or less. Likewise, disclosures under 12 CFR 1026.20(c) are not required if the first interest rate and payment adjustment occurs within the first 210 days and the new rate disclosed at consummation pursuant to 12 CFR 1026.20(d) was not an estimate. ARM disclosures for payment changes are exempt under 12 CFR 1026.20(c)(1)(ii)(C) if the servicer is a debt collector under the Fair Debt Collection Practices Act (FDCPA) and a consumer has exercised the right under FDCPA section 805(c) to prohibit debt collector communications regarding the debt.

Closed-End Advertising—12 CFR 1026.24

Regulation Z requires that loan product advertisements provide accurate and balanced information, in a clear and conspicuous manner, about rates, monthly payments, and other loan features. The advertising rules ban several deceptive or misleading advertising practices, including representations that a rate or payment is “fixed” when in fact it can change.

If an advertisement for credit states specific credit terms, it must state only those terms that actually are or will be arranged or offered by the creditor.

Disclosures required by this section must be made "clearly and conspicuously." To meet this standard in general, credit terms need not be printed in a certain type size nor appear in any particular place in the advertisement. For advertisements for credit secured by a dwelling, a clear and conspicuous disclosure means that the required information is disclosed with equal prominence and in close proximity to the advertised rates or payments triggering the required disclosures.

If an advertisement states a rate of finance charge, it must state the rate as an "annual percentage rate," using that term. If the APR may be increased after consummation, the advertisement must state that fact.

If an advertisement is for credit *not* secured by a dwelling, the advertisement must not state any other rate, except that a simple annual rate or periodic rate that is applied to an unpaid balance may be stated in conjunction with, but not more conspicuously than, the APR.

If an advertisement is for credit secured by a dwelling, the advertisement must not state any other rate, except that a simple annual rate that is applied to an unpaid balance may be stated in conjunction with, but not more conspicuously than, the APR. That is, an advertisement for credit secured by a dwelling may not state a periodic rate, other than a simple annual rate, that is applied to an unpaid balance.

The following are "triggering terms" that require additional disclosures:

- The amount or percentage of any down payment.
- The number of payments or period of repayment.
- The amount of any payment.
- The amount of any finance charge.

An advertisement stating a triggering term must also state the following terms, as applicable:

- The amount or percentage of any down payment.
- The terms of repayment, which reflect the repayment obligations over the full term of the loan, including any balloon payment.
- The "annual percentage rate," using that term, and, if the rate may be increased after consummation, that fact.

For any advertisement secured by a dwelling, other than television or radio advertisements, that states that a simple annual rate of interest and more than one simple annual rate of interest will apply over the term of the advertised loan, the advertisement must state the following in a clear and conspicuous manner:

- Each simple rate of interest that will apply. In variable-rate transactions, a rate determined by adding an index and margin must be disclosed based on a reasonably current index and margin.
- The period of time during which each simple annual rate of interest will apply.
- The APR for the loan.

The regulation prohibits the following seven deceptive or misleading acts or practices in advertisements for closed-end mortgage loans:

- Stating that rates or payments for loans are "fixed" when those rates or payments can vary without adequately disclosing that the interest rate or payment amounts are "fixed" only for a limited period of time, rather than for the full term of the loan.
- Making comparisons between actual or hypothetical credit payments or rates and any payment or rate available under the advertised product that is not available for the full term of the loan, with certain exceptions for advertisements for variable-rate products.
- Characterizing the products offered as "government loan programs," "government-supported loans," or otherwise endorsed or sponsored by a federal or state government entity even though the advertised products are not government-supported or -sponsored loans.
- Displaying the name of the consumer's current mortgage lender, unless the advertisement also prominently discloses that the advertisement is from a mortgage lender not affiliated with the consumer's current lender.
- Making claims of debt elimination if the product advertised would merely replace one debt obligation with another.
- Creating a false impression that the mortgage broker or lender is a "counselor" for the consumer.
- In foreign-language advertisements, providing certain information, such as a low introductory "teaser" rate, in a foreign language, while providing required disclosures only in English.

Subpart E—Special Rules for Certain Home Mortgage Transactions

General Rules—12 CFR 1026.31

The requirements and limitations of this subpart are in addition to, and not in lieu of, those contained in other subparts of Regulation Z. The disclosures for high-cost, reverse mortgage, and higher-priced mortgage transactions must be made clearly and conspicuously in writing, in a form that the consumer may keep and in compliance with specific timing requirements.

Requirements for High-Cost Mortgages—12 CFR 1026.32

The requirements of this section generally apply to a high-cost mortgage, which is a consumer credit transaction secured by the consumer's principal dwelling (subject to the exemptions discussed on the next page) that meets any one of the following three coverage tests:

- The APR will exceed the average prime offer rate (APOR),[14] as defined in 12 CFR 1026.35(a)(2), applicable for a comparable transaction as of the date the interest rate is set by
  - more than 6.5 percentage points for first-lien transactions (other than as described below);
  - more than 8.5 percentage points for first-lien transactions if the dwelling is personal property and the loan amount is less than $50,000; or
  - more than 8.5 percentage points for subordinate-lien transactions.
- The total points and fees (see definition below) for the transaction will exceed,
  - for transactions with a loan amount of $20,000 or more, 5 percent of the total loan amount; or
  - for transactions with a loan amount of less than $20,000, the lesser of 8 percent of the total transaction amount or $1,000 for the calendar year 2014.

  The $20,000 and $1,000 dollar amounts are adjusted annually based on changes in the Consumer Price Index and will be reflected in official interpretations of 12 CFR 1026.32(a)(1)(ii). The official interpretation of 12 CFR 1026.32(a)(1)(ii) also contains a historical list of dollar amount adjustments for transactions originated before January 10, 2014.

  Note: The "total loan amount" (using the face amount of the note) for closed-end credit is calculated by taking the amount financed (see 12 CFR 1026.18(b)) and deducting any cost listed in 12 CFR 1026.32(b)(1)(iii), (iv), or (vi) that is both included in points and fees and financed by the creditor. The "total loan amount" for open-end credit is the credit plan limit when the account is opened.

- The terms of the loan contract or open-end credit agreement permit the creditor to charge a prepayment penalty (see definition below) more than 36 months after consummation or account opening, or prepayment penalties that exceed more than 2 percent of the amount prepaid (12 CFR 1026.32(a)(1)(iii)).

  Note: 12 CFR 1026.32(d)(6) prohibits prepayment penalties for high-cost mortgages. If a mortgage loan has a prepayment penalty that may be imposed more than 36 months after consummation or account opening or that is greater than 2 percent of the amount prepaid, the loan is a high-cost mortgage regardless of interest rate or fees. Therefore, the prepayment penalty coverage test above effectively bans prepayment penalties that exceed HOEPA's prescribed limits for consumer credit transactions secured by the consumer's principal dwelling (except for transactions exempt from the high-cost mortgage definition).

[14] The APOR means an APR that is derived from average interest rates, points, and other loan pricing terms currently offered to consumers by a representative sample of creditors for mortgage transactions that have low-risk pricing characteristics. The CFPB publishes APORs for a broad range of transactions in a table updated at least weekly, as well as the methodology it uses to derive these rates. These rates are available on the FFIEC's Web site (www.ffiec.gov/ratespread/newcalchelp.aspx).

Exemptions From HOEPA Coverage—12 CFR 1026.32(a)(2)

The following transactions are exempt from the HOEPA provisions otherwise applicable to high-cost mortgages:

- Reverse mortgage transactions subject to 12 CFR 1026.33.
- A transaction that finances the initial construction of a dwelling.
- A transaction originated by a housing finance agency, in which the housing finance agency is the creditor for the transaction.
- A transaction originated pursuant to Rural Development Section 502 Direct Loan Program of the U.S. Department of Agriculture (USDA).

Determination of APR for High-Cost Mortgages—12 CFR 1026.32(a)(3)

The APR used to determine whether a mortgage is a high-cost mortgage is calculated differently from the APR that is used on TILA disclosures. Specifically, the APR for HOEPA coverage is based on the following:

- If the APR will not vary during the length of the loan or credit plan (i.e., for fixed-rate transactions), the interest rate in effect as of the date the interest rate for the transaction is set (12 CFR 1026.32(a)(3)(i)).
- If the interest rate may vary during the term of the loan or credit plan in accordance with an index, the interest rate that results from adding the maximum margin permitted at any time during the term of the loan or credit plan to the index rate in effect as of the date the interest rate for the transaction is set, or to the introductory interest rate, whichever is greater (12 CFR 1026.32(a)(3)(ii)).
- If the interest rate may or will vary during the term of the loan or credit plan other than as described above (i.e., as in a step-rate transaction), the maximum interest rate that may be imposed during the life of the loan or credit plan (12 CFR 1026.32(a)(3)(iii)).

Points and Fees for High-Cost Mortgages—12 CFR 1026.32(b)

Note: Points and fees calculations for high-cost mortgages depend on whether the transaction is closed-end or open-end.

For a closed-end transaction, calculate the points and fees by including the following charges (12 CFR 1026.32(b)(1)):

1. All items included in the finance charge under 12 CFR 1026.4(a) and (b), except that the following items are excluded:

    - Interest or the time-price differential.
    - Any premiums or other charges imposed in connection with a federal or state agency program for any guaranty or insurance that protects the creditor against the consumer's default or other credit loss (i.e., up-front and annual FHA premiums, U.S. Department of Veterans Affairs (VA) funding fees, and USDA guarantee fees).

- Premiums or other charges for any guaranty or insurance that protects creditors against the consumer's default or other credit loss and *is not* in connection with a federal or state agency program (i.e., PMI premiums) as follows:
  - The entire amount of any premiums or other charges payable after consummation (i.e., monthly or annual PMI premiums); or
  - If the premium or other charge is payable at or before consummation, the portion of any such premium or other charge that is not in excess of the permissible up-front mortgage insurance premium for FHA loans, but only if the premium or charge is refundable on a pro rata basis and the refund is automatically issued upon the notification of the satisfaction of the underlying mortgage loan. The permissible up-front mortgage insurance premiums for FHA loans are published in HUD Mortgagee Letters, available online at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/letters/mortgagee.
- Bona fide third-party charges not retained by the creditor, loan originator, or an affiliate of either, unless the charge is required to be included under 12 CFR 1026.32(b)(1)(i)(C), (iii), or (v).
- Up to two bona fide discount points payable by the consumer in connection with the transaction, provided that the interest rate without any discount does not exceed
  - the APOR for a comparable transaction by more than 1 percentage point; or
  - if the transaction is secured by personal property, the average rate for a loan insured under Title I of the National Housing Act by more than 1 percentage point.
- If no discount points have been excluded above, then up to one bona fide discount point payable by the consumer in connection with the transaction, provided that the interest rate without any discount does not exceed
  - the APOR for a comparable transaction by more than 2 percentage points; or
  - if the transaction is secured by personal property, the average rate for a loan insured under Title I of the National Housing Act by more than 2 percentage points.

Note: In the case of a closed-end plan, a bona fide discount point means an amount equal to 1 percent of the loan amount paid by the consumer that reduces the interest rate or time-price differential applicable to the transaction based on a calculation that is consistent with established industry practices for determining the amount of reduction in the interest rate or time-price differential appropriate for the amount of discount points paid by the consumer (12 CFR 1026.32(b)(3)).

2. All compensation paid directly or indirectly by a consumer or creditor to a loan originator (as defined in 12 CFR 1026.36(a)(1)) that can be attributed to the transaction at the time the interest rate is set unless

   - that compensation is paid by a consumer to a mortgage broker, as defined in 12 CFR 1026.36(a)(2), and already has been included in points and fees under 12 CFR 1026.32(b)(1)(i);

- that compensation is paid by a mortgage broker, as defined in 12 CFR 1026.36(a)(2), to a loan originator that is an employee of the mortgage broker;
- that compensation is paid by a creditor to a loan originator that is an employee of the creditor; or
- the compensation is paid by a retailer of manufactured homes to its employee.

Note: A person is not a loan originator if the person does not take a consumer credit application or offer or negotiate credit terms available from a creditor to that consumer based on the consumer's financial characteristics, but the person performs purely administrative or clerical tasks on behalf of a person who does engage in such activities. An employee of a manufactured home retailer who does not take a consumer credit application, offer or negotiate credit terms, or advise a consumer on credit terms is not a loan originator. For purposes of 12 CFR 1026.36(a), "credit terms" include rates, fees, or other costs, and a consumer's financial characteristics include any factors that may influence a credit decision, such as debts, income, assets, or credit history.

3. All items listed in 12 CFR 1026.4(c)(7), other than amounts held for future taxes, unless *all* of the following conditions are met:

   - The charge is reasonable;
   - The creditor receives no direct or indirect compensation in connection with the charge; and
   - The charge is not paid to an affiliate of the creditor.

4. Premiums or other charges paid at or before consummation, whether paid in cash or financed, for any credit life, credit disability, credit unemployment, or credit property insurance, or for any other life, accident, health, or loss-of-income insurance for which the creditor is a beneficiary, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract.

5. The maximum prepayment penalty that may be charged or collected under the terms of the mortgage or credit plan.

6. The total prepayment penalty incurred by the consumer if the consumer refinances an existing mortgage loan, or terminates an existing open-end credit plan in connection with obtaining a new mortgage loan, with a new mortgage transaction extended by the current holder of the existing loan, a servicer acting on behalf of the current holder, or an affiliate of either.

For an open-end credit plan, points and fees mean the following charges that are known at or before account opening (12 CFR 1026.32(b)(2)):

1. All items included in the finance charge under 12 CFR 1026.4(a) and (b), except that the following items are excluded:

   - Interest or the time-price differential.

- Any premiums or other charges imposed in connection with a federal or state agency program for any guaranty or insurance that protects the creditor against the consumer's default or other credit loss (i.e., up-front and annual FHA premiums, VA funding fees, and USDA guarantee fees).
- Premiums or other charges for any guaranty or insurance that protects creditors against the consumer's default or other credit loss and *is not* in connection with a federal or state agency program (i.e., PMI premiums) as follows:
  - If the premium or other charge is payable after account opening, the entire amount of such premium or other charge, or
  - If the premium or other charge is payable at or before account opening, the portion of any such premium or other charge that is not in excess of the permissible up-front mortgage insurance premium for FHA loans, but only if the premium or charge is refundable on a pro rata basis and the refund is automatically issued upon the notification of the satisfaction of the underlying mortgage loan. The permissible up-front mortgage insurance premiums for FHA loans are published in HUD Mortgagee Letters, available online at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/letters/mortgagee.
- Bona fide third-party charges not retained by the creditor, loan originator, or an affiliate of either, unless the charge is required to be included under 12 CFR 1026.32(b)(2)(i)(C), (iii), or (iv).
- Up to two bona fide discount points payable by the consumer in connection with the transaction, provided that the interest rate without any discount does not exceed
  - the APOR by more than 1 percentage point; or
  - if the transaction is secured by personal property, the average rate for a loan insured under Title I of the National Housing Act by more than 1 percentage point.
- If no discount points have been excluded above, then up to one bona fide discount point payable by the consumer in connection with the transaction, provided that the interest rate without any discount does not exceed
  - the APOR by more than 2 percentage points; or
  - if the transaction is secured by personal property, the average rate for a loan insured under Title I of the National Housing Act by more than 2 percentage points.

Note: A bona fide discount point means an amount equal to 1 percent of the credit limit when the account is opened, paid by the consumer, that reduces the interest rate or time-price differential applicable to the transaction based on a calculation that is consistent with established industry practices for determining the amount of reduction in the interest rate or time-price differential appropriate for the amount of discount points paid by the consumer (12 CFR 1026.32(b)(3)(ii)).

2. All compensation paid directly or indirectly by a consumer or creditor to a loan originator (as defined in 12 CFR 1026.36(a)(1)) that can be attributed to the transaction at the time the interest rate is set unless

- that compensation is paid by a consumer to a mortgage broker, as defined in 12 CFR 1026.36(a)(2) and already has been included in points and fees under 12 CFR 1026.33(b)(2)(i);
- that compensation is paid by a mortgage broker as defined in 12 CFR 1026.36(a)(2) to a loan originator that is an employee of the mortgage broker;
- that compensation is paid by a creditor to a loan originator that is an employee of the creditor, or
- that compensation is paid by a retailer of manufactured homes to its employee.

Note: A person is not a loan originator if the person does not take a consumer credit application or offer or negotiate credit terms available from a creditor to that consumer based on the consumer's financial characteristics, but the person performs purely administrative or clerical tasks on behalf of a person who does engage in such activities. An employee of a manufactured home retailer who does not take a consumer credit application, offer or negotiate credit terms, or advise a consumer on credit terms is not a loan originator. For purposes of 12 CFR 1026.36(a), "credit terms" include rates, fees or other costs, and a consumer's financial characteristics include any factors that may influence a credit decision, such as debts, income, assets, or credit history.

3. All items listed in 12 CFR 1026.4(c)(7), other than amounts held for future taxes, unless *all* of the following conditions are met:

   - The charge is reasonable;
   - The creditor receives no direct or indirect compensation in connection with the charge; and
   - The charge is not paid to an affiliate of the creditor.

4. Premiums or other charges paid at or before account opening for any credit life, credit disability, credit unemployment, or credit property insurance, or for any other life, accident, health, or loss-of-income insurance for which the creditor is a beneficiary, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract.

5. The maximum prepayment penalty that may be charged or collected under the terms of the credit plan.

6. The total prepayment penalty incurred by the consumer if the consumer refinances an existing closed-end credit transaction with an open-end credit plan, or terminates an existing open-end credit plan in connection with obtaining a new open-end credit with the current holder of the existing transaction or plan, a servicer acting on behalf of the current holder, or an affiliate of either.

7. Fees charged for participation in the credit plan, payable at or before account opening, as described in 12 CFR 1026.4(c)(4).

8. Any transaction fee that will be charged to draw funds on the credit line, as described in 12 CFR 1026.32(b)(2)(viii).

Prepayment Penalty Definition—12 CFR 1026.32(b)(6)

For closed-end credit transactions, a prepayment penalty is a charge imposed for paying all or part of the transaction's principal before the date on which the principal is due with limited exceptions.

For open-end credit plans, a prepayment penalty is a charge imposed by the creditor if the consumer terminates the credit plan before the end of its term.

Note: Waived, bona fide third-party charges that are later imposed if the closed-end transaction is prepaid or the consumer terminates the open-end credit plan sooner than 36 months after consummation or account opening are not considered prepayment penalties.

Note: For closed-end transactions insured by the FHA and consummated before January 21, 2015, interest charged consistent with the monthly interest accrual amortization method is not a prepayment penalty, so long as the interest is charged consistent with the monthly interest accrual amortization method used for those loans. See Comment 32(b)(6)-1(iv).

High-Cost Mortgage Disclosures—12 CFR 1026.32(c)

In addition to the other disclosure requirements of Regulation Z, high-cost mortgages require certain additional information to be disclosed in conspicuous type size to consumers before consummation of the transaction or account opening. These disclosures include

- notice to the consumer using the required language in 12 CFR 1026.32(c)(1).
- the APR (12 CFR 1026.32(c)(2)).
- specified information concerning the regular or minimum periodic payment and the amount of any balloon payment, if permitted under the high-cost mortgage limitations in 12 CFR 1026.32(d) (12 CFR 1026.32(c)(3)).
- for variable-rate transactions, a statement that the interest and monthly payment may increase, and the amount of the single maximum monthly payment based on the maximum interest rate required to be included in the contract (12 CFR 1026.32(c)(4)).
- the total amount borrowed for closed-end credit transactions or the credit limit for the plan when the account is opened for an open-end credit plan (12 CFR 1026.32(c)(5)).

Note: For closed-end credit transactions, if the amount borrowed includes charges to be financed under 12 CFR 1026.34(a)(10), this fact must be stated, grouped together with the disclosure of amount borrowed. The disclosure of the amount borrowed will be treated as accurate if it is not more than $100 above or below the amount required to be disclosed.

High-Cost Mortgage Limitations—12 CFR 1026.32(d)

Certain loan terms, including negative amortization, interest rate increases after default, and prepayment penalties, are prohibited for high-cost mortgages. Others, including balloon payments and due-on-demand clauses, are restricted.

- Balloon payments, defined as payments that are more than two times a regular periodic payment, are generally prohibited for high-cost mortgages (12 CFR 1026.32(d)(1)(i)). Balloon payments are, however, allowed in certain limited circumstances.
  - For closed-end transactions, balloon payments are permitted when (a) the loan has a payment schedule that is adjusted to seasonal or irregular income of the consumer; (b) the loan is a "bridge" loan made in connection with the purchase of a new dwelling and matures in 12 months or less; (c) the creditor is a small creditor operating predominantly in rural or underserved areas that meets the criteria set forth in 12 CFR 1026.43(f) for small creditor rural or underserved balloon-payment qualified mortgages; or (d) until January 10, 2016, the creditor is a small creditor that meets the criteria set forth in 12 CFR 1026.43(e)(6) for temporary balloon-payment qualified mortgages (12 CFR 1026.32(d)(1)(ii)).
  - For an open-end credit plan in which the terms of the plan provide for a draw period when no payment is required, followed by a repayment period when no further draws may be taken, the initial payment required after conversion to the repayment phase of the credit plan is not considered a "balloon" payment. If the terms of an open-end credit plan do not provide for a separate draw period and repayment period, however, the balloon payment limitation applies (12 CFR 1026.32(d)(1)(iii)).
- Acceleration clauses or demand features are limited and may only permit creditors to accelerate and demand repayment of the entire outstanding balance of a high-cost mortgage if
  - there is fraud or material misrepresentation by the consumer in connection with the loan (12 CFR 1026.32(d)(8)(i));
  - the consumer fails to meet the repayment terms of the agreement for any outstanding balance that results in a default on the loan (12 CFR 1026.32(d)(8)(ii)); or
  - there is any action (or inaction) by the consumer that adversely affects the rights of the creditor's security interest for the loan, such as the consumer failing to pay required taxes on the property (12 CFR 1026.32(d)(8)(iii) and Comments 32(d)(8)(iii)-1 and -2).

Prohibited Acts or Practices in Connection with High-Cost Mortgages—12 CFR 1026.34

In addition to the requirements in 12 CFR 1026.32, Regulation Z imposes additional requirements for high-cost mortgages, several of which are discussed below.

Refinancing Within One-Year—12 CFR 1026.34(a)(3)

A creditor or assignee cannot refinance a consumer's high-cost mortgage into a second high-cost mortgage within the first year of the origination of the first loan, unless the second high-cost mortgage is in the consumer's interest.

Repayment Ability for High-Cost Mortgages—12 CFR 1026.34(a)(4)

Among other requirements, a creditor extending high-cost mortgage credit subject to 12 CFR 1026.32 must not make such loans without regard to the consumer's repayment ability as of consummation or account opening as applicable (12 CFR 1026.34(a)(4)).

For closed-end credit transactions that are high-cost mortgages, 12 CFR 1026.34(a)(4) requires a creditor to comply with the repayment ability requirements set forth in 12 CFR 1026.43.

For open-end credit plans that are high-cost mortgages, a creditor may not open a credit plan for a consumer if credit is or will be extended without regard to the consumer's repayment ability as of account opening, including the consumer's current and reasonably expected income, employment, assets other than the collateral, and current obligations, including any mortgage-related obligations.

- For the purposes of these open-end requirements, mortgage-related obligations include, among other things, property taxes, premiums and fees for mortgage-related insurance that are required by the creditor, fees and special assessments such as those imposed by a condominium association, and similar expenses required by another credit obligation undertaken before or at account opening and secured by the same dwelling that secures the high-cost mortgage transaction (12 CFR 1026.34(a)(4)(i)).
- A creditor must also verify both current obligations and the amounts of income or assets that it relies on to determine repayment ability using W-2s, tax returns, payroll receipts, financial institution records, or other third-party documents that provide reasonably reliable evidence of the consumer's income or assets (12 CFR 1026.34(a)(4)(ii)).

For open-end high-cost mortgages, a presumption of compliance is available, but only if the creditor

- verifies the consumer's repayment ability as required under 12 CFR 1026.34(a)(4)(ii).
- determines the consumer's repayment ability taking into account current obligations and mortgage-related obligations, using the largest required minimum periodic payment based on the assumptions that
  - the consumer borrows the full credit line at account opening with no additional extensions of credit;
  - the consumer makes only required minimum periodic payments during the draw period and any repayment period; and

  - if the APR can increase, the maximum APR that is included in the contract applies to the plan at account opening and will apply during the draw and any repayment period (12 CFR 1026.34(a)(4)(iii)(B)).
- assesses the consumer's repayment ability, taking into account either the ratio of total debts to income or the income the consumer will have after paying current obligations (12 CFR 1026.34(a)(4)(iii)(C)).

Note: No presumption of compliance will be available for an open-end high-cost mortgage transaction in which the regular periodic payments, when aggregated, do not fully amortize the outstanding principal balance, except for transactions with balloon payments permitted under 12 CFR 1026.32(d)(1)(ii).

High-Cost Mortgage Pre-Loan Counseling—12 CFR 1026.34(a)(5)

Creditors that originate high-cost mortgages must receive written certification that the consumer has obtained counseling on the advisability of the mortgage from a counselor approved by HUD, or, if permitted by HUD, a state housing finance authority (specific content for the certifications can be found in 12 CFR 1026.34(a)(5)(iv)). Counseling must occur after the consumer receives a good-faith estimate or initial TILA disclosure required by 12 CFR 1026.40 (or, for transactions in which neither of those disclosures are provided, the disclosures required by 12 CFR 1026.32(c)). Additionally, counseling cannot be provided by a counselor who is employed by, or affiliated with, the creditor. A creditor may pay the fees for counseling but is prohibited from conditioning the payment of fees on the consummation of the mortgage transaction or, if the consumer withdraws his or her application, upon receipt of the certification. A creditor may, however, confirm that a counselor provided counseling to the consumer before paying these fees. Finally, a creditor is prohibited from steering a consumer to a particular counselor.

Recommended Default—12 CFR 1026.34(a)(6)

Creditors (and mortgage brokers) are prohibited from recommending or encouraging a consumer to default on an existing loan or other debt before, and in connection with, the consummation or account opening of a high-cost mortgage that refinances all or any portion of the existing loan or debt.

Loan Modification and Deferral Fees—12 CFR 1026.34(a)(7)

Creditors, successors-in-interest, assignees, or any agents of these parties may not charge a consumer any fee to modify, renew, extend, or amend a high-cost mortgage, or to defer any payment due under the terms of the mortgage.

Late Fees—12 CFR 1026.34(a)(8)

Late payment charges for a high-cost mortgage must be permitted by the terms of the loan contract or open-end agreement and may not exceed 4 percent of the amount of the payment that is past due. Late payment charges are permitted only if payment is not received by the end of the 15-day period beginning on the day the payment is due or, when interest on each installment is paid in advance, by the end of the 30-day period beginning on the day the payment is due.

Creditors are also prohibited from "pyramiding" late fees—that is, charging late payments if any delinquency is attributable only to a late payment charge that was imposed due to a previous late payment, and the payment otherwise is considered a full payment for the applicable period (and any allowable grace period). If a consumer fails to make a timely payment by the due date, then subsequently resumes making payments but has not paid all past due payments, the creditor can continue to impose late payment charges for the payments outstanding until the default is cured.

Fees for Payoff Statements—12 CFR 1026.34(a)(9)

A creditor or servicer may not charge a fee for providing consumers (or authorized representatives) with a payoff statement on a high-cost mortgage. Payoff statements must be provided to consumers within five business days after receiving the request for a statement. A creditor or servicer may charge a processing fee to cover the cost of providing the payoff statement by fax or courier only, provided that such fee may not exceed an amount that is comparable to fees imposed for similar services provided in connection with a non-high-cost mortgage and that a payoff statement be made available to the consumer by an alternative method without charge. If a creditor charges a fee for providing a payoff statement by fax or courier, the creditor must disclose the fee before charging the consumer and must disclose to the consumer that other methods for providing the payoff statement are available at no cost. Finally, a creditor is permitted to charge a consumer a reasonable fee for additional payoff statements during a calendar year in which four payoff statements have already been provided without charge other than permitted processing fees.

Reverse Mortgages—12 CFR 1026.33

A reverse mortgage is a non-recourse transaction secured by the consumer's principal dwelling that ties repayment (other than upon default) to the homeowner's death, the transfer of the dwelling's title, or when the consumer ceases to occupy the dwelling as a principal dwelling. Special disclosure requirements apply to reverse mortgages.

Higher-Priced Mortgage Loans—12 CFR 1026.35(a)

A mortgage loan subject to 12 CFR 1026.35 (higher-priced mortgage loan) is a closed-end consumer credit transaction secured by the consumer's principal dwelling with an APR that exceeds the APOR for a comparable transaction as of the date the interest rate is set by

- 1.5 or more percentage points for loans secured by a first lien on a dwelling in which the amount of the principal obligation at the time of consummation does not exceed the maximum principal obligation eligible for purchase by Freddie Mac;
- 2.5 or more percentage points for loans secured by a first lien on a dwelling, in which the amount of the principal obligation at the time of consummation exceeds the maximum principal obligation eligible for purchase by Freddie Mac; or
- 3.5 or more percentage points for loans secured by a subordinate lien on a dwelling.

The APOR means an APR that is derived from average interest rates, points, and other loan pricing terms currently offered to consumers by a representative sample of creditors for mortgage transactions that have low-risk pricing characteristics. The CFPB publishes APORs for a broad range of transactions in a table updated at least weekly, as well as the methodology it uses to derive these rates. These rates are available on the Web site of the Federal Financial Institutions Examination Council (FFIEC) (www.ffiec.gov/ratespread/newcalchelp.aspx).

Additionally, creditors extending mortgage loans subject to 12 CFR 1026.43(c) must verify a consumer's ability to repay as required by 12 CFR 1026.43(c).

Finally, the regulation prohibits creditors from structuring a home-secured loan that does not meet the definition of open-end credit as an open-end plan to evade these requirements.

Higher-Priced Mortgage Loans Escrow Requirement—12 CFR 1026.35(b)

In general, a creditor may not extend a higher-priced mortgage loan (including high-cost mortgages that also meet the definition of a higher-priced mortgage loan), secured by a first lien on a principal dwelling, unless an escrow account is established before consummation for payment of property taxes and premiums for mortgage-related insurance required by the creditor.

An escrow account for a higher-priced mortgage loan need not be established for

- a transaction secured by shares in a cooperative.
- a transaction to finance the initial construction of a dwelling.
- a temporary or "bridge" loan with a term of 12 months or less.
- a reverse mortgage subject to 12 CFR 1026.33.

There is also a limited exemption that allows creditors to establish escrow accounts for property taxes only (rather than for both property taxes and insurance) for loans secured by dwellings in a "common interest community" under 12 CFR 1026.35(b)(2)(ii), in which dwelling ownership requires participation in a governing association that is obligated to maintain a master insurance policy insuring all dwellings (12 CFR 1026.35(b)(2)(ii)).

An exemption to the higher-priced mortgage loan escrow requirement is available for first-lien higher-priced mortgage loans made by certain creditors that operate predominantly in "rural" or "underserved" areas. To make use of this exemption, a creditor

- must have made, during any of the three preceding calendar years, more than half of its covered transactions in counties that meet the definition of "rural" or "underserved" as laid out in the regulation;[15]
- together with any affiliates must not have made more than 500 covered transactions in the preceding calendar year;
- must have had less than $2 billion in total assets as of the end of the preceding calendar year;[16] and
- together with any affiliates must not maintain escrow accounts for any extensions of consumer credit secured by real property or a dwelling that it or its affiliate currently services. Such creditors (and their affiliates), however, are permitted to offer an escrow account to accommodate distressed borrowers and may continue to maintain escrow accounts established to comply with the rule for applications received on or after April 1, 2010, and before January 1, 2014, without losing the exemption.

For first-lien, higher-priced mortgage loans originated by a creditor that would not be required to establish an escrow account based on the above exemption, if that creditor has obtained a commitment for a higher-priced mortgage loan to be acquired by another company that is not eligible for the exemption, an escrow account must be established. Since an escrow account will be established for this loan, if the creditor that has obtained a commitment for the higher-priced mortgage loan to be acquired by a nonexempt company would like to remain eligible for the exemption above, neither the creditor nor its affiliates can service the loan on or beyond the second periodic payment under the terms of the loan.

A creditor or servicer may cancel an escrow account only upon the earlier of termination of the underlying loan or a cancellation request from the consumer five years or later after consummation. A creditor or servicer, however, is not permitted to cancel an escrow account, even upon request from the consumer, unless the unpaid principal balance of the higher-priced mortgage loan is less than 80 percent of the original value of the property securing the loan and the consumer is not currently delinquent or in default on the loan (12 CFR 1026.35(b)(3)).

Higher-Priced Mortgage Loans Appraisal Requirement—12 CFR 1026.35(c)

General Requirements, Exception, and Safe Harbor

A creditor may not extend a higher-priced mortgage loan without first obtaining a written appraisal of the property to be mortgaged.[17] The appraisal must be performed by a state-

[15] The regulation generally defines these two terms by reference to "urban influence codes" (for "rural") and Home Mortgage Disclosure Act data (for "underserved"). To ease compliance, however, the CFPB will post on its public Web site a list of "rural" and "underserved" counties that creditors may rely on as a safe harbor. See Comment 35(b)(2)(iv)-1.

[16] The asset threshold will be adjusted automatically each year, based on the year-to-year change in the average of the CPI-W. The asset threshold effective January 1, 2014, is $2.028 billion in total assets.

[17] The higher-priced mortgage loans appraisal requirement was adopted pursuant to an interagency rulemaking conducted by the FRB, the CFPB, the Federal Deposit Insurance Corporation, the Federal Housing Finance

certified or licensed appraiser (defined in part as an appraiser who conducts the appraisal in conformity with the Uniform Standards of Professional Appraisal Practice [USPAP] and the requirements applicable to appraisers in title IX of the Federal Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] and its implementing regulations). The appraisal must include a physical visit of the interior of the dwelling.

The appraisal requirements do not apply to the following:

- Qualified mortgages as defined under 15 USC 1639c.
- An extension of credit equal to or less than the applicable threshold amount, which is adjusted every year to reflect increases in CPI-W, and published in the official staff commentary to the regulation.[18]
- A transaction secured by a mobile home, boat, or trailer.
- A transaction to finance the initial construction of a dwelling.
- A loan with a maturity of 12 months or less, if the purpose of the loan is a "bridge" loan connected with the acquisition of a dwelling intended to become the consumer's principal dwelling.
- A reverse-mortgage transaction subject to 12 CFR 1026.33(a) (12 CFR 1026.35(c)(2)).
- A refinancing secured by a first lien, as defined in 12 CFR 1026.20(a) (except that the creditor need not be the original creditor or a holder or servicer of the original obligation), provided that the refinancing meets the following criteria:
  - The credit risk of the refinancing is retained by the person that held the credit risk of the existing obligation and there is no commitment, at consummation, to transfer the credit risk to another person; or, the refinancing is insured or guaranteed by the same federal government agency that insured or guaranteed the existing obligation;
  - The regular periodic payments under the refinance loan do not
    - cause the principal balance to increase;
    - allow the consumer to defer repayment of principal; or
    - result in a balloon payment, as defined in 12 CFR 1026.18(s)(5)(i).
  - The proceeds from the refinancing are used solely to satisfy the existing obligation and amounts attributed solely to the costs of the refinancing.
- A transaction secured in whole or in part by a manufactured home.[19]

A creditor may obtain a safe harbor for compliance with 12 CFR 1026.35(c)(3)(i) by ordering that the appraisal be completed in conformity with USPAP and the requirements applicable to appraisers in title IX of FIRREA and its implementing regulations, verifying

Agency, the NCUA, and the OCC. The FRB codified the rule at 12 CFR 226.43, and the OCC codified the rule at 12 CFR 34 and 164. There is no substantive difference among these three sets of rules.

[18] From January 18, 2014, through December 31, 2014, the threshold amount is $25,000.

[19] The temporary exemption for all loans secured in whole or in part by a manufactured home applies until July 18, 2015. The permanent exemption, 12 CFR 1026.35(c)(2)(viii), effective July 18, 2015, may be found at 78 Fed. Reg. 78520, 78586 (December 26, 2013).

that the appraiser is certified or licensed through the National Registry; and confirming that the written appraisal contains the elements listed in appendix N of Regulation Z. In addition, the creditor must have no actual knowledge that the facts or certifications contained in the appraisal are inaccurate (12 CFR 1026.35(c)(3)(ii)).

Second Appraisals

The appraisal provisions in 12 CFR 1026.35(c) also require creditors to obtain a second written appraisal before extending a higher-priced mortgage loan in two instances:

- First, when the dwelling that is securing the higher-priced mortgage loan was acquired by the seller 90 or fewer days before the consumer's agreement to purchase the property and the price of the property has increased by more than 10 percent.
- Second, when the dwelling was acquired by the seller between 91 and 180 days before the consumer's agreement to purchase the property, and the price of the property has increased by more than 20 percent.

A creditor must obtain a second interior appraisal unless the creditor can demonstrate, by exercising reasonable diligence, that the two instances necessitating a second appraisal do not apply. A creditor can meet the reasonable diligence requirement if it bases its determination on information contained in certain written source documents (such as a copy of the seller's recorded deed or a copy of a property tax bill). See appendix O to the regulation. If, after exercising reasonable diligence, the creditor is unable to determine whether the two instances necessitating a second appraisal apply, the creditor must obtain a second appraisal.

If the creditor is required to obtain a second written appraisal, the two required appraisals must be conducted by different appraisers. Each appraisal obtained must include a physical visit of the interior of the dwelling. In instances when two appraisals are required, creditors are allowed to charge for only one of the two appraisals.

The second written appraisal must contain an analysis of the difference between the price at which the seller obtained the property and the price the consumer agreed to pay to acquire the property, an analysis of changes in market conditions between when the seller acquired the property and when the consumer agreed to purchase the property, and a review of improvements made to the property between the two dates.

The higher-priced mortgage loan second appraisal requirements do not apply to the extension of credit financing acquisition of a property

- from a local, state, or federal government agency.
- from a person who acquired title to the property through foreclosure, deed-in-lieu of foreclosure, or other similar judicial or non-judicial procedures as a result of the person's exercise of rights as the holder of a defaulted mortgage.
- from a nonprofit entity as part of a local, state, or federal government program permitted to acquire single-family properties for resale from a person who acquired title through

foreclosure, deed-in-lieu of foreclosure, or other similar judicial or non-judicial procedures.
- from a person who acquired title to the property by inheritance or by court order as a result of a dissolution of marriage, civil union, or domestic partnership, or of partition of joint or marital assets.
- from an employer or relocation agency in connection with the relocation of an employee.
- from a servicemember who received a deployment or permanent change of station order after the servicemember purchased the property.
- located in a federal disaster area if and for as long as the requirements of title XI of FIRREA have been waived by the federal financial institutions regulatory agencies.
- located in a rural county as defined by the CFPB in 12 CFR 1026.35(b)(2)(iv)(A).

Application Disclosures and Copy of Appraisal

Finally, creditors must provide consumers who apply for a loan covered by the appraisal requirements in 12 CFR 1026.35(c) with a disclosure providing information relating to appraisals. A creditor must provide consumers with disclosures no later than the third business day after the creditor receives an application for a higher-priced mortgage loan, or no later than the third business day after the loan requested becomes a higher-priced mortgage loan. Additionally, a creditor must provide, at no cost to the consumer, a copy of each written appraisal performed in connection with a loan covered by the appraisal requirements in 12 CFR 1026.35(c) no later than three business days before consummation or, if the loan will not be consummated, no later than 30 days after the creditor determines that the loan will not be consummated.

Prohibited Acts or Practices in Connection With Credit Secured by a Consumer's Dwelling—12 CFR 1026.36

Loan Originator—12 CFR 1026.36(a)

The term "loan originator" means a person who, in expectation of direct or indirect compensation or other monetary gain or for direct or indirect compensation or other monetary gain, performs any of the following activities:

- Takes an application, offers, arranges, assists a consumer in obtaining or applying to obtain, negotiates, or otherwise obtains or makes an extension of consumer credit for another person.
- Through advertising or other means of communication represents to the public that such person can or will perform any of these activities.

The term "loan originator" includes an employee, agent, or contractor of the creditor or loan originator organization if the employee, agent, or contractor meets this definition. The term "loan originator" also includes a creditor that engages in loan origination activities if the creditor does not finance the transaction at consummation out of the creditor's own

resources, including by drawing on a bona fide warehouse line of credit or out of deposits held by the creditor.

The term "loan originator" does not include

- a person who performs purely administrative or clerical tasks on behalf of a person who takes applications or offers or negotiates credit terms.
- an employee of a manufactured home retailer who does not take a consumer credit application, offer or negotiate credit terms, or advise consumers on available credit terms.
- a person who performs only real estate brokerage activity and is licensed or registered in accordance with applicable state law, unless that person is compensated by a creditor or loan originator for a consumer credit transaction subject to 12 CFR 1026.36.
- a seller financer that meets the criteria established in 12 CFR 1026.36(a)(4) or (a)(5).
- a servicer, or a servicer's employees, agents, and contractors who offer or negotiate the terms of a mortgage for the purpose of renegotiating, modifying, replacing, or subordinating principal of an existing mortgage when consumers are behind in their payments, in default, or have a reasonable likelihood of becoming delinquent or defaulting. This exception does not, however, apply to such persons if they refinance a mortgage (under 12 CFR 1026.20) or obligate a different consumer on an existing debt.

An "individual loan originator" is a natural person who meets the definition of "loan originator." Finally, a "loan originator organization" is any loan originator that is not an individual loan originator. A loan originator organization would include banks, federal savings associations, finance companies, credit unions, and mortgage brokers.

Prohibited Loan Originator Compensation: Payments Based on a Term of a Transaction—12 CFR 1026.36(d)(1)

With limited exceptions, loan originators cannot receive (and no person can pay directly or indirectly) compensation in connection with closed-end consumer credit transactions secured by a dwelling based on a term of a transaction, the terms of multiple transactions, or the terms of multiple transactions by multiple individual loan originators. The loan originator compensation provisions do not apply to open-end HELOCs or loans secured by a consumer's interest in a time-share plan described in 11 USC 101(53D).

A "term of a transaction" is any right or obligation of the parties to a credit transaction. The amount of credit extended is not a term of a transaction, provided that compensation paid to a loan originator is based on a fixed percentage of the amount of credit extended (but may be subject to a minimum or maximum dollar amount).

Note: A review of whether compensation, which includes salaries, commissions, and any financial or similar incentive, is based on the terms of a transaction requires an objective analysis. If compensation would have been different if a transaction term had been different, then the compensation is prohibited. The regulation does not prevent compensating loan originators differently on different transactions, provided the difference is not based on a term of a transaction or on a proxy for a term of a transaction (a factor that consistently varies

with a term or terms of the transaction over a significant number of transactions and which the loan originator has the ability to manipulate).

An individual loan originator may receive (and a person may pay) the following:

- Compensation in the form of a contribution to a defined contribution plan that is a designated tax-advantage plan unless the contribution is tied to the terms of the individual's transaction(s) (12 CFR 1026.36(d)(1)(iii)).
- Compensation in the form of a benefit under a defined benefit plan that is a designated tax-advantaged plan (12 CFR 1026.36(d)(1)(iii)).
- Compensation under a nondeferred profits-based compensation plan, provided that
  - the compensation paid to an individual loan originator is not directly or indirectly based on the terms of the individual's transaction(s); and
  - either
    - the compensation paid to the individual loan originator does not exceed 10 percent (in aggregate) of the individual loan originator's total compensation corresponding to the time period for which the compensation under the nondeferred profits-based compensation plan is paid; or
    - the individual loan originator was the loan originator of 10 or fewer transactions during the 12 months preceding the date the compensation was determined (12 CFR 1026.36(d)(1)(iv)).

For more information pertaining to permissible compensation, see the commentary to 12 CFR 1026.36(d).[20]

Prohibited Loan Originator Compensation: Dual Compensation—12 CFR 1026.36(d)(2)

Loan originators that receive compensation directly from consumers in consumer credit transactions secured by a dwelling (except for open-end HELOCs or loans secured by a consumer's interest in a time-share plan) may not receive additional compensation directly or indirectly from any other person in connection with that transaction (12 CFR 1026.36(d)(2)(i)(A)(1)). This prohibition includes compensation received from a third-party to the transaction to pay for some or all of the consumer's costs (12 CFR 1026.36(d)(2)(i)(B)). Further, a person is prohibited from compensating a loan originator when that person "knows or has reason to know" that the consumer has paid compensation to the loan originator (12 CFR 1026.36(d)(2)(i)(A)(2)).

Even if a loan originator organization receives compensation directly from a consumer, however, the organization can compensate the individual loan originator, subject to paragraph (d)(1) of 12 CFR 1026.36 (12 CFR 1026.36(d)(2)(i)(C)).

[20] In addition to the requirements listed here, 12 CFR 1026.25(c) imposes specific record retention requirements for creditors and loan originator organizations that compensate loan originators.

Prohibition on Steering—12 CFR 1026.36(e)

Loan originators are prohibited from directing or "steering" consumers to loans based on the fact that the originator will receive greater compensation for the loan from the creditor than in other transactions the originator offered or could have offered to the consumer, unless the consummated transaction is in the consumer's interest. A loan originator complies with the prohibition on steering by obtaining loan options from a significant number of the creditors with which the loan originator regularly does business and, for each loan type in which the consumer has expressed interest, presenting the consumer with loan options for which the loan originator believes in good faith the consumer likely qualifies, provided that the presented loan options include all of the following:

- The loan with the lowest interest rate;
- The loan with the lowest interest rate without certain enumerated risky features (such as prepayment penalties, negative amortization, or a balloon payment in the first seven years); and
- The loan with the lowest total dollar amount of discount points, origination points, or origination fees (or, if two or more loans have the same total dollar amount of discount points, origination points, or origination fees, the loan with the lowest interest rate that has the lowest total dollar amount of discount points, origination points, or origination fees).

The anti-steering provisions do not apply to open-end HELOCs or to loans secured by a consumer's interest in a time-share plan.

Loan Originator Qualification Requirements—12 CFR 1026.36(f)

Individual loan originators and loan originator organizations must, when required under state or federal law, be registered and licensed under those laws, including the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act).[21] Loan originator organizations other than government agencies or state housing finance agencies must

- comply with all applicable state law requirements for legal existence and foreign qualification (12 CFR 1026.36(f)(1)).
- ensure that each individual loan originator who works for the loan originator organization (e.g., an employee, under a brokerage agreement) is licensed or registered to the extent the individual is required to be licensed or registered under the SAFE Act before acting as a loan originator in a consumer credit transaction secured by a dwelling (12 CFR 1026.36(f)(2)).

[21] 12 CFR 1026.36(f) applies to closed-end consumer credit transactions secured by a dwelling except a loan that is secured by a consumer's interest in a time-share plan described in 11 USC 101(53D). For purposes of 12 CFR 1026.36(f), a loan originator includes all creditors that engage in loan origination activities, not just those who table fund.

The requirements are different for loan originator organizations whose employees are not required to be licensed and are not licensed pursuant to 12 CFR 1008.103 or state SAFE Act-implementing laws (including employees of depository institutions and bona fide nonprofits).

If an employee was hired on or after January 1, 2014, or hired before January 1, 2014, but was not subject to any statutory or regulatory background standards, or the loan originator organization believes, based on reliable information, the loan originator does not meet the qualification standards (regardless of when hired), a loan originator employer must obtain the following before an individual acts as a loan originator in a consumer credit transaction secured by a dwelling:

- A criminal background check through the Nationwide Mortgage Licensing System and Registry (NMLSR) or, in the case of an individual loan originator who is not a registered loan originator under NMLSR, a criminal background check from a law enforcement agency or commercial service (12 CFR 1026.36(f)(3)(i)(A));
- A credit report from a consumer reporting agency (as defined in section 603(p) of the Fair Credit Reporting Act) secured, when applicable, in compliance with section 604(b) of that act (12 CFR 1026.36(f)(3)(i)(B)); and
- Information from the NMLSR about any administrative, civil, or criminal findings by any government jurisdiction or, in the case of an individual loan originator who is not a registered loan originator under the NMLSR, such information from the individual loan originator (12 CFR 1026.36(f)(3)(i)(C)).

Based on the information obtained above and any other information reasonably available, the loan originator employer must determine for such an employee before allowing the individual to act as a loan originator in a consumer credit transaction secured by a dwelling

- that the individual has not been convicted of, or pleaded guilty or nolo contendere to, a felony in a domestic or military court during the preceding seven-year period or, in the case of a felony involving an act of fraud, dishonesty, a breach of trust, or money laundering, at any time (12 CFR 1026.36(f)(3)(ii)(A)(1)).
  Note: Whether the conviction of a crime is considered a felony is determined by whether the conviction was classified as a felony under the law of the jurisdiction under which the individual is convicted. Additionally, a loan originator organization may employ an individual with a felony conviction (or a plea of nolo contendere) as a loan originator if that individual has received consent from the Federal Deposit Insurance Corporation (or the FRB, as applicable), the NCUA, or the Farm Credit Administration under their own applicable statutory authority (12 CFR 1026.36(f)(3)(iii)).
- that the individual has demonstrated financial responsibility, character, and general fitness such as to warrant a determination that the individual loan originator will operate honestly, fairly, and efficiently.

The loan originator organization must also provide periodic training to each such employee that covers federal and state legal requirements that apply to the individual loan originator's loan origination activities.

Name and NMLSR ID on Loan Documentation—12 CFR 1026.36(g)

12 CFR 1026.36(g) applies to closed-end consumer credit transactions secured by a dwelling except for a loan that is secured by a consumer's interest in a time-share plan described in 11 USC 101(53D). For purposes of 12 CFR 1026.36(g), a loan originator includes all creditors that engage in loan origination activities, not just those who table fund.

For consumer credit transactions secured by a dwelling, loan originator organizations must include certain identifying information on loan documentation provided to consumers. The loan documents must include the loan originator organization's name, the NMLSR ID (if applicable), and the name of the individual loan originator that is primarily responsible for the origination as it appears in the NMLSR, as well as the individual's NMLSR ID. This information is required on credit applications, the note or loan contract, and the documents securing an interest in the property.

Policies and Procedures to Ensure and Monitor Compliance—12 CFR 1026.36(j)

Depository institutions (including credit unions) must establish and maintain written policies and procedures reasonably designed to ensure and monitor compliance of the depository institution, its employees, and its subsidiaries and their employees with the requirements of 12 CFR 1026.36(d) (prohibited payments to loan originators), 12 CFR 1026.36(e) (prohibition on steering), 12 CFR 1026.36(f) (loan originator qualifications), and 12 CFR 1026.36(g) (name and NMLSR ID on loan documents). The written policies and procedures must be appropriate to the nature, size, complexity, and scope of the mortgage lending activities of the depository and its subsidiaries (12 CFR 1026.36(j)).

Prohibition on Mandatory Arbitration or Waivers of Certain Consumer Rights—12 CFR 1026.36(h)

A contract or other agreement for a consumer credit transaction secured by a dwelling (including a HELOC secured by the consumer's principal dwelling) may not include terms that require mandatory arbitration or any other non-judicial procedure to resolve any controversy arising out of the transaction. In addition, a contract or other agreement relating to such a consumer credit transaction may not be applied or interpreted to bar a consumer from bringing a claim in court under any provision of law for damages or other relief in connection with an alleged violation of any federal law. A creditor and a consumer, however, could agree, after a dispute or claim under the transaction arises, to settle or use arbitration or other non-judicial procedure to resolve that dispute or claim.

Prohibition on Financing Credit Insurance—12 CFR 1026.36(i)

Creditors are prohibited from "financing" (i.e., providing a consumer the right to defer payment beyond the monthly period in which the premium or fee is due), either directly or indirectly, premiums or fees for credit insurance in connection with a consumer credit transaction secured by a dwelling (including a HELOC secured by the consumer's principal

dwelling). This prohibition includes financing fees for credit life, credit disability, credit unemployment, credit property insurance, or any other accident, loss-of-income, life, or health insurance or payment for debt cancellation or suspension. This prohibition does not apply to credit unemployment insurance in which the premiums are reasonable, the creditor receives no direct or indirect compensation in connection with the premiums, and the premiums are paid under a separate insurance contract and not to an affiliate of the creditor. It does not apply to credit insurance in which premiums or fees are "calculated" and paid in full "on a monthly basis" (i.e., determined mathematically by multiplying a rate by the actual monthly outstanding balance). This prohibition also does not apply to a credit insurance product with a level or levelized monthly premium that is not financed.

Negative Amortization Counseling—12 CFR 1026.36(k)

A creditor may not extend a negative amortizing mortgage loan to a first-time borrower in connection with a closed-end transaction secured by a dwelling, other than a reverse mortgage or a transaction secured by a time-share, unless the creditor receives documentation that the consumer has obtained homeownership counseling from a HUD-certified or HUD-approved counselor. Additionally, a creditor extending a negative amortizing mortgage loan to a first-time borrower may not steer, direct, or require the consumer to use a particular counselor.

Payment Processing—12 CFR 1026.36(c)(1)

For a consumer credit transaction secured by a consumer's principal dwelling, a loan servicer

- cannot fail to credit a periodic payment to the consumer's loan account as of the date of receipt, except in instances when the delay will not result in a charge to the consumer or in the reporting of negative information to a consumer reporting agency.
  Note: For the purposes of 12 CFR 1026.36(c), a periodic payment is "an amount sufficient to cover principal, interest, and escrow for any given billing cycle." If the consumer owes late fees, other fees, or non-escrow payments but makes a full periodic payment, the servicer must credit the periodic payment as of the date of receipt.
- cannot retain a partial payment (any amount less than a periodic payment) in a suspense or unapplied payment account without disclosing to the consumer in the periodic statement (if required) the total amount(s) held in the suspense account and applying the payment to the balance upon accumulation of sufficient funds to equal a periodic payment.

If a servicer has provided written requirements for accepting payments in writing but then accepts payments that do not conform to the written requirements, the servicer must credit the payment as of five days after receipt.

Pyramiding of Late Fees—12 CFR 1026.36(c)(2)

A servicer may not impose on the consumer any late fee or delinquency charge in connection with a payment, when the only delinquency is attributable to late fees or delinquency charges

assessed on an earlier payment, and the payment is otherwise a periodic payment for the applicable period and is received on its due date or within any applicable courtesy period.

Providing Payoff Statements—12 CFR 1026.36(c)(3)

For consumer credit transactions secured by a dwelling, including HELOCs under 12 CFR 1026.40(a), a creditor, assignee, or servicer may not fail to provide, within a reasonable time, but no more than seven business days, after receiving a written request from the consumer or person acting on behalf of the consumer, an accurate statement of the total outstanding balance that would be required to pay the consumer's obligation in full as of a specific date.

Note: For purposes of 12 CFR 1026.36(c)(3), when a creditor, assignee, or servicer is not able to provide the statement within seven business days because a loan is in bankruptcy or foreclosure, because the loan is a reverse mortgage or shared appreciation mortgage, or because of natural disasters or similar circumstances, the payoff statement must be provided within a reasonable time.

Notification of Sale or Transfer of Mortgage Loans—12 CFR 1026.39

Notice of new owner: No later than 30 calendar days after the date on which a mortgage loan is acquired by or otherwise sold, assigned, or otherwise transferred[22] to a third party, the "covered person"[23] shall notify the consumer clearly and conspicuously in writing, in a form that the consumer may keep, of such transfer and include

- identification of the loan that was sold, assigned, or otherwise transferred;
- name, address, and telephone number of the covered person;
- date of transfer;
- name, address, and telephone number of an agent or party having authority, on behalf of the covered person, to receive notice of the right to rescind and resolve issues concerning the consumer's payments on the mortgage loan;
- location where transfer of ownership of the debt to the covered person is or may be recorded in public records or, alternatively, that the transfer of ownership has not been recorded in public records at the time the disclosure is provided; and
- at the option of the covered person, any other information regarding the transaction.

[22] The date of transfer to the covered person may, at the covered person's option, be either the date of acquisition recognized in the books and records of the acquiring party or the date of transfer recognized in the books and records of the transferring party.

[23] A "covered person" means any person, as defined in 12 CFR 1026.2(a)(22), that becomes the owner of an existing mortgage loan by acquiring legal title to the debt obligation, whether through a purchase, assignment, or other transfer, and who acquires more than one mortgage loan in any 12-month period. For purposes of this section, a servicer of a mortgage loan shall not be treated as the owner of the obligation if the servicer holds title to the loan or it is assigned to the servicer solely for the administrative convenience of the servicer in servicing the obligation. See 12 CFR 1026.39(a)(1).

This notice of sale or transfer must be provided for any consumer credit transaction that is secured by the principal dwelling of a consumer. Thus, it applies to both closed-end mortgage loans and open-end HELOCs. This notification is required of the covered person even if the loan servicer remains the same.

Regulation Z also establishes special rules regarding the delivery of the notice when there is more than one covered person. In a joint acquisition of a loan, the covered persons must provide a single disclosure that lists the contact information for all covered persons. If one of the covered persons is authorized to receive a notice of rescission and to resolve issues concerning the consumer's payments, however, the disclosure may state contact information only for that covered person. In addition, if the multiple covered persons each acquire a partial interest in the loan pursuant to separate and unrelated agreements, they may provide either a single notice or separate notices. Finally, if a covered person acquires a loan and subsequently transfers it to another covered person, a single notice may be provided on behalf of both of them, as long as the notice satisfies the timing and content requirements with respect to each of them.

In addition, there are three exceptions to the notice requirement to provide the notice of sale or transfer:

- The covered person sells, assigns, or otherwise transfers legal title to the mortgage loan on or before the 30th calendar day following the date of transfer on which it acquired the mortgage loan.
- The mortgage loan is transferred to the covered person in connection with a repurchase agreement that obligates the transferring party to repurchase the mortgage loan (unless the transferring party does not repurchase the mortgage loan).
- The covered person acquires only a partial interest in the mortgage loan, and the agent or party authorized to receive the consumer's rescission notice and resolve issues concerning the consumer's payments on the mortgage loan does not change as a result of that transfer.

Periodic Statements for Residential Mortgage Loans—12 CFR 1026.41

Creditors, assignees, or servicers[24] of closed-end mortgages are generally required to provide consumers with periodic statements for each billing cycle. Periodic statements must be provided by the servicer within a reasonably prompt time after the payment is due, or at the end of any courtesy period provided by the servicer for the previous billing cycle. Delivering, e-mailing, or placing the periodic statements in the mail within four days of the close of the courtesy period of the previous billing cycle is generally acceptable.

[24] Creditors, assignees, and servicers are all subject to the requirements of 12 CFR 1026.41, as applicable. Creditors, assignees, or servicers may decide among themselves which of them will provide the required disclosures. Establishing a business relationship when one party agrees to provide disclosures on behalf of the other parties, however, does not absolve the other parties from their legal obligations. A creditor or assignee that currently does not own the mortgage loan or mortgage servicing rights is not subject to the periodic statement requirement.

Periodic statements are not required for

- reverse mortgage transactions covered under 12 CFR 1026.33.
- mortgage loans secured by a consumer's interest in a time-share plan.
- fixed-rate loans when the servicer provides consumers with coupon books if (1) each coupon contains information about the payment due date, late fee, and, more prominently, the amount due; (2) the coupon book, in some location, contains certain specified account information, contact information for the servicer, and how the consumer can obtain past payment breakdowns; (3) the servicer provides delinquency information (if applicable); and (4) the servicer makes available other information otherwise provided on the periodic statement upon request.
- creditors, assignees, or servicers that meet the "small servicer" exemption.
  Note: 12 CFR 1026.41(e)(4)(ii) and (iii) define a "small servicer" and provide clarification on how a small servicer will be determined. A small servicer is a servicer that either services, together with any affiliates, 5,000 or fewer mortgage loans, for all of which it or an affiliate is the creditor or assignee, or a servicer that meets the definition of a housing finance agency under 24 CFR 266.5. To determine whether a servicer is a small servicer, a servicer should be evaluated based on the mortgage loans serviced by the servicer and any affiliate as of January 1 for the remainder of the calendar year. A servicer that ceases to qualify as a small servicer has the later of six months from the time it ceases to qualify or until the next January 1 to come into compliance with the requirements of 12 CFR 1026.41. The following mortgage loans are not considered in determining whether the servicer qualifies as a small servicer: mortgage loans voluntarily serviced by the servicer for a creditor or assignee that is not an affiliate of the servicer and for which the servicer does not receive any compensation or fees; reverse mortgage transactions; and mortgage loans secured by consumers' interests in time-share plans.
- a mortgage loan while the consumer is a debtor in bankruptcy under title 11 of the U.S. Code.

Servicers must provide consumers with the following information in the specified format on the periodic statements:

The Amount Due

- Grouped together in close proximity to one another and located at the top of the first page of the statement: the payment due date; the amount of any late payment fee; the date that late payment fees will be assessed to the consumer's account if timely payment is not made; and the amount due, which must be shown more prominently than other disclosures on the page.
  Note: If the transaction has multiple payment options, the amount due under each of the payment options must be provided.
- Grouped together in close proximity to one another and located on the first page of the statement: an explanation of the amount due, including the monthly payment amount with a breakdown of how much will be applied to principal, interest, and escrow; the total sum of any fees and charges imposed since the last statement; and any payment amount past due. Mortgage loans with multiple payment options must also have a breakdown of

each payment option, along with information regarding how each payment option will affect the principal.

Past Payment Breakdown

- Grouped together in close proximity to one another and located on the first page of the statement, the total of all payments received since the last statement and the total of all payments received since the start of the calendar year, including, for each payment, a breakdown of how the payment(s) was applied to principal, interest, escrow, fees and charges, and any amount held in a suspense or unapplied funds account (if applicable).

Transaction Activity

- A list of transaction activity (including the date, amount, and brief description of each transaction) for the current billing cycle, including any credits or debits that affect the current amount due.

Partial Payment Information

- If a statement reflects a past partial payment held in a suspense or unapplied funds account, information explaining what the consumer must do to have the payment applied to the mortgage. Information must be on the front page or on a separate page of the statement or separate letter.

Contact Information

- Contact information for the servicer, including a toll-free telephone number and e-mail address (if applicable) that the consumer may use to obtain information regarding the account. Contact information must be on the front page of the statement.

Account Information

- Account information, including the outstanding principal balance, the current interest rate, the date after which the interest rate may change if the loan is an ARM, and any prepayment penalty, as well as the Web address for the CFPB's or HUD's list of homeownership counselors or counseling organizations and the HUD toll-free telephone number to contact the counselors or counseling organizations.

Delinquency Information

Servicers must provide consumers who are more than 45 days delinquent on past payments with additional information regarding their accounts on their periodic statements. These items must be grouped together in close proximity to one another on the first page or a separate page with the periodic statement or in a separate letter and must include

- the date on which the consumer became delinquent.
- a notification of the possible risks of being delinquent, such as foreclosure and related expenses.
- an account history for either the previous six months or the period since the last time the account was current (whichever is shorter), which details the amount past due from each billing cycle or, if any such payment was fully paid, the date on which payments were credited to the account as fully paid.

- a notice stating any loss mitigation program that the consumer has agreed to (if applicable).
- a notice stating whether the servicer has initiated a foreclosure process.
- total payments necessary to bring the account current.
- a reference to homeownership counseling information (see "Account Information" above).

The regulation does not prohibit adding to the required disclosures, as long as the additional information does not overwhelm or obscure the required disclosures. For example, while certain information about the escrow account (such as the account balance) is not required on the periodic statement, this information may be included.

The periodic statement may be provided electronically if the consumer agrees. The consumer must give affirmative consent to receive statements electronically.

For sample periodic statements, see appendix H-30 to the regulation.

Valuation Independence—12 CFR 1026.42

Regulation Z seeks to ensure that real estate appraisers, and others preparing valuations, are free to use their independent professional judgment in assigning home values without influence or pressure from those with interests in the transactions. Regulation Z also seeks to ensure that appraisers receive customary and reasonable payments for their services. Regulation Z's valuation rules apply to creditors and settlement service providers for consumer credit transactions secured by the consumer's principal dwelling ("covered transaction") and includes several provisions that protect the integrity of the appraisal process when a consumer's principal dwelling is securing the loan. In general, the rule prohibits "covered persons" from engaging in coercion, bribery, and other similar actions designed to cause anyone who prepares a valuation to base the value of the property on factors other than the person's independent judgment.[25] More specifically, Regulation Z

- prohibits coercion and other similar actions designed to cause appraisers to base the appraised value of properties on factors other than their independent judgment.
- prohibits appraisers and appraisal management companies hired by lenders from having financial or other interests in the properties or the credit transactions.
- prohibits creditors from extending credit based on appraisals if they know beforehand of violations involving appraiser coercion or conflicts of interest, unless the creditors determine that the values of the properties are not materially misstated.
- prohibits a person who prepares a valuation from materially misrepresenting the value of the consumer's principal dwelling, and prohibits a covered person other than the person who prepares valuations from materially altering a valuation. A misrepresentation or

[25] This section applies to any consumer credit transaction secured by a dwelling. A "covered person" means a creditor with respect to a covered transaction. A "covered transaction" means an extension of consumer credit that is or will be secured by a dwelling, as defined in 12 CFR 1026.2(a)(19).

alteration is material if it is likely to significantly affect the value assigned to the consumer's principal dwelling.
- prohibits any covered person from falsifying a valuation or inducing a misrepresentation, falsification, or alteration of value.
- requires that creditors or settlement service providers that have information about appraiser misconduct file reports with the appropriate state licensing authorities if the misconduct is material (i.e., likely to significantly affect the value assigned to the consumer's principal dwelling.
- requires the payment of reasonable and customary compensation to appraisers who are not employees of the creditors or of the appraisal management companies hired by the creditors.

Minimum Standards for Transactions Secured by a Dwelling (Ability to Repay and Qualified Mortgages)—12 CFR 1026.43

Minimum Standards for Transactions Secured by a Dwelling—12 CFR 1026.43(a), (g), and (h)

Creditors originating certain mortgage loans are required to make a reasonable and good-faith determination at or before consummation that a consumer will have the ability to repay the loan. The ability-to-repay requirement applies to most closed-end mortgage loans; there are some exclusions, however, including

- HELOCs.[26]
- mortgages secured by an interest in a time-share plan.
- reverse mortgages.
- a temporary bridge loan with a term of 12 months or less, such as a loan to finance the purchase of a new dwelling when the consumer plans to sell a current dwelling within 12 months or a loan to finance the initial construction of a dwelling.
- a construction phase of 12 months or less of a construction-to-permanent loan.
- an extension of credit made pursuant to a program authorized by sections 101 and 109 of the Emergency Economic Stabilization Act of 2008 (12 USC 5211 and 5219).

Note: There are additional exclusions under 12 CFR 1026.43(a) that generally include extensions of credit by various state or federal government agencies or programs or by creditors with specific designations under such programs or extensions of credit that meet certain criteria and are extended by certain creditors that the Internal Revenue Service (IRS) has determined are 501(c)(3) nonprofits. For a full list, please see 12 CFR 1026.43(a)(3)(iv)–(vi).

[26] For open-end credit transactions that are high-cost mortgages as defined in 12 CFR 1026.32, creditors are required to determine a borrower's ability to repay under 12 CFR 1026.34.

Generally, loans covered under this section (which, for purposes of the prepayment penalty provisions in 12 CFR 1026.43(g), include reverse mortgages and temporary loans otherwise excluded[27] from the ability-to-repay provisions) may not have prepayment penalties; there are exceptions, however, for certain fixed-rate and step-rate qualified mortgages that are not higher-priced mortgage loans (as defined in 12 CFR 1026.35(a)), and only if otherwise permitted by law. For such mortgages, the prepayment penalties must be limited to the first three years of the loan and may not exceed 2 percent for the first two years and 1 percent for the third year. The creditor must offer the consumer an alternative loan without such penalties that the creditor has a good-faith belief that the consumer likely qualifies for, with the same term, a fixed rate or step rate, substantially equal payments, and limited points and fees (see 12 CFR 1026.43(g)).

Ability to Repay—12 CFR 1026.43(c)

Except as provided under 12 CFR 1026.43(d) (refinancing of non-standard mortgages), (e) (qualified mortgages), and (f) (balloon payment qualified mortgages by certain creditors), creditors must consider the following eight underwriting factors when making a determination of the consumer's ability to repay:

- The consumer's current or reasonably expected income or assets (excluding the value of the dwelling and any attached real property).
- The consumer's current employment status if the creditor relies on the consumer's income in determining repayment ability.
- The consumer's monthly payment for the mortgage loan.
- The consumer's monthly payment on any simultaneous loan (i.e., a covered transaction or HELOC that is being consummated generally at the same or similar time) secured by the same dwelling that the creditor knows or has reason to know will be made, calculated in accordance with 12 CFR 1026.43(c)(6).
- The consumer's monthly payment for mortgage-related obligations, including property taxes.
- The consumer's current debt obligations, alimony, and child support.
- The consumer's monthly debt-to-income ratio or residual income, calculated in accordance with 12 CFR 1026.43(c)(7).
- The consumer's credit history.

Creditors are required to verify this information using reasonably reliable third-party records, with specific rules for verification of income or assets and employment status. In the case of the consumer's income or assets, the creditor must use third-party records that provide reasonably reliable evidence of such income or assets. Creditors may verify the information considered using the consumer's income tax return transcripts issued by the IRS, copies of

[27] The exclusions include a temporary or "bridge" loan with a term of 12 months or less; a construction phase of 12 months or less of a construction-to-permanent loan; an extension of credit made pursuant to a program administered by a housing finance agency; an extension of credit made by certain community development or nonprofit lenders, as specified in 12 CFR 1026.43(a)(3)(v); or an extension of credit made pursuant to a program authorized by sections 101 and 109 of the Emergency Economic Stabilization Act of 2008in connection with certain federal emergency economic stabilization programs (12 CFR 1026.43(a)(3)).

tax returns filed by the consumer, W-2s or similar documentation, payroll statements, financial institution records, receipts from check-cashing or fund transfer services, and records from the consumer's employer or other specified records (12 CFR 1026.43(c)(4)).

Regulation Z also provides rules for how creditors must apply certain underwriting factors when determining whether a consumer has the ability to repay the mortgage. For example, creditors must calculate the monthly payment for the covered transaction using the greater of the fully indexed rate or any introductory interest rate, and the monthly, fully amortizing payments that are substantially equal during the loan term. Special rules apply to mortgages with a balloon payment, interest-only loans, and negative amortization loans due to the unique characteristics of the mortgage (12 CFR 1026.43(c)(5)).

Finally, creditors may not evade the ability-to-repay requirements by structuring a closed-end loan secured by a dwelling as open-end credit that does not meet the definition of an open-end credit plan.

Refinancing of Non-Standard Mortgages—12 CFR 1026.43(d)

12 CFR 1026.43(d) provides special rules for refinancing a non-standard mortgage into a standard mortgage.

A non-standard mortgage is a covered transaction[28] as defined under 12 CFR 1026.43(a) that is

- an ARM with an introductory fixed interest rate for a period of one year or longer;
- an interest-only loan; or
- a negative amortization loan.

A standard mortgage is a covered transaction as defined under 12 CFR 1026.43(a) with

- periodic payments that do not cause the principal balance to increase, do not allow the consumer to defer repayment of the principal, or do not result in balloon payments;
- total points and fees that are not more than those allowed in 12 CFR 1026.43(e)(3);
- a term that does not exceed 40 years;
- an interest rate that is fixed for the first five years of the loan; and
- proceeds that are used solely to pay off the outstanding principal on the non-standard mortgage and closing or settlement costs (that are required to be disclosed under the Real Estate Settlement Procedures Act [RESPA]).

[28] A covered transaction is a consumer credit transaction that is secured by a dwelling, including any real property attached to the dwelling. A covered transaction is not a HELOC under 12 CFR 1026.40; a mortgage secured by a consumer's interest in a time-share plan; a reverse mortgage under 12 CFR 1026.33; a temporary or "bridge" loan with a term of 12 months or less; a construction phase of 12 months or less of a construction-to-permanent loan; or an extension of credit made pursuant to a program administered by a housing finance agency, by certain community development or nonprofit lenders, as specified in 12 CFR 1026.43(a)(3)(v), or in connection with certain federal emergency economic stabilization programs.

Current holders of non-standard mortgages or their servicers (collectively referred to here as "holders") can refinance non-standard mortgages into standard mortgages without considering a consumer's ability to repay under 12 CFR 1026.43(c), if certain conditions are met.

To qualify for the standard mortgage exemption from the ability-to-repay requirements,

- the standard mortgage must have a monthly payment that is "materially lower"[29] than the non-standard mortgage,
- the creditor must receive a written application from the consumer for the standard mortgage no later than two months after the non-standard mortgage is recast, and
- on the non-standard mortgage, the consumer must have made no more than one payment more than 30 days late during the preceding 12 months and must have made no late payments more than 30 days late in the preceding six months of the holder receiving the application for a standard mortgage.

For non-standard loans consummated on or after January 10, 2014, that are refinanced into standard mortgages, the exemption from the ability-to-repay requirements for the refinancing is available only if the non-standard mortgage met the repayment ability requirements under 12 CFR 1026.43(c) or the qualified mortgage requirements under 12 CFR 1026.43(e), as applicable.

If these conditions are satisfied and if the holder has considered whether the standard mortgage is likely to prevent the consumer from defaulting on the non-standard mortgage once the loan terms are recast, the holder is not required to meet the ability-to-repay requirements in 12 CFR 1026.43(c). Finally, holders refinancing a non-standard mortgage to a standard mortgage may offer consumers rate discounts and terms that are the same as (or better than) rate discounts and terms that the holder offers to new consumers, consistent with the holder's documented underwriting practices and to the extent not prohibited by applicable laws. For example, a holder would comply with this requirement if it has documented underwriting practices that provide for offering rate discounts to consumers with credit scores above a certain threshold, even though the consumer would not normally qualify for that discounted rate.

Qualified Mortgages: Rebuttable Presumption and Safe Harbor—12 CFR 1026.43(e)

[29] When comparing the payments, the holder must calculate the payment for the standard mortgage based on substantially equal, monthly, fully amortizing payments based on the maximum interest rate that may apply in the first five years. The holder must calculate the non-standard mortgage payment based on substantially equal, monthly, fully amortizing payments of principal and interest using

- the fully indexed rate as of a reasonable period of time before or after the date on which the creditor receives the consumer's application for the standard mortgage.
- the term of the loan remaining as of the date on which the recast occurs, assuming all scheduled payments have been made up to the recast date and the payment due on the recast date is made and credited as of that date.
- the remaining loan amount, which is calculated differently depending on whether the loan is an ARM, interest-only loan, or negative amortization loan.

The rule provides a presumption of compliance with the ability-to-repay requirements for creditors that originate certain types of loans called "qualified mortgages." There are several categories of qualified mortgages, which are discussed on the following pages. Qualified mortgages afford creditors and assignees greater protection against liability under the ability-to-repay provisions. Qualified mortgages that are not higher-priced covered transactions receive a safe harbor under the ability-to-repay provisions, which means the presumption of compliance cannot be rebutted. A qualified mortgage is higher priced if the loan's APR exceeds the APOR by (1) 1.5 percentage points or more for first-lien loans that fall within either the general qualified mortgage definition or the temporary qualified mortgage definition for loans that are eligible to be purchased, guaranteed, or insured by government-sponsored enterprises (GSE) or federal agencies; or (2) 3.5 percentage points for first-lien loans that fall within the small creditor balloon payment, temporary small creditor balloon payment, or small creditor portfolio qualified mortgage definitions, or for second-lien loans.

Generally, the safe harbor provides a conclusive presumption that the creditor made a good-faith and reasonable determination of the consumer's ability to repay. Qualified mortgages that are higher priced receive a rebuttable presumption of compliance rather than a safe harbor with the ability-to-repay provisions. This means that the loan is presumed to comply with the ability-to-repay provisions, but, for example, the consumer would have the opportunity to rebut that presumption in future ability-to-repay litigation.

For a qualified mortgage that is a higher-priced covered transaction, the presumption of compliance is rebuttable by showing that at consummation, the consumer's income, debt obligations, alimony, child support, and monthly payments on the loan and mortgage-related obligations and simultaneous loans of which the creditor was aware at consummation would leave the consumer with insufficient residual income or assets (other than the value of the dwelling and real property) to meet living expenses (including recurring and material non-debt obligations that the creditor was aware of at consummation).

General Requirements for Qualified Mortgages—12 CFR 1026.43(e)(2)

Loans that are qualified mortgages under the general definition may not have negative amortization, interest-only payments, balloon payments, or terms exceeding 30 years. A qualified mortgage for loans greater than or equal to $100,000 may not have points and fees paid by the consumer that exceed 3 percent of the total loan amount (although certain "bona fide discount points" are excluded for certain loans with pricing within prescribed ranges of APOR). The rule provides guidance on calculating points and fees and thresholds for smaller loans.[30]

The rule also provides underwriting criteria for qualified mortgages. Generally, the rule requires that monthly payments be calculated based on the highest payment that will apply in

[30] The definition and calculation rules for points and fees are the same as those used to determine whether a closed-end mortgage is a HOEPA loan, discussed earlier in "Points and Fees for High-Cost Mortgages, 12 CFR 1026.32(b)."

the first five years of the loan after the date on which the first periodic payment is due and that the consumer have a total (or "back-end") debt-to-income ratio that is less than or equal to 43 percent. Appendix Q to the regulation, drawing on FHA guidelines, details the calculation of debt-to-income for these purposes. The rule also requires that the creditor consider and verify the consumer's current or reasonably expected income or assets and current debt obligations, alimony and child support, also in accordance with appendix Q.

Temporary Category of Qualified Mortgages—12 CFR 1026.43(e)(4)

Regulation Z provides a temporary category of qualified mortgages that—except with regard to matters that are wholly unrelated to ability to repay—satisfy the underwriting requirements of, and are therefore eligible to be purchased, guaranteed, or insured by, either (1) the GSEs (Fannie Mae and Freddie Mac) while they operate under federal conservatorship or receivership, or (2) the VA, the USDA, or the Rural Housing Service. This temporary provision will phase out over time as the various federal agencies issue their own qualified mortgage rules or if GSE conservatorship ends, and in any event after seven years (January 10, 2021).[31] These mortgages must satisfy certain requirements applicable to qualified mortgages, including prohibitions on negative-amortization, interest-only, and balloon-payment features; maximum loan terms of 30 years; and points-and-fees restrictions. The flat 43 percent debt-to-income threshold for qualified mortgages, however, does not apply.

Qualified Mortgage: Small Creditor Portfolio Loans—12 CFR 1026.43(e)(5)

Mortgages that are originated and held in portfolio by certain small creditors are also qualified mortgages if they meet certain requirements.

These mortgages must generally satisfy the requirements applicable to qualified mortgages, including prohibitions on negative-amortization, balloon-payment, and interest-only features; maximum loan terms of 30 years; and points-and-fees restrictions. While the creditor must consider and verify the consumer's current or reasonably expected income or assets and current debt obligations, alimony, and child support, however, it may do so without regard to the standards in appendix Q. In addition, debt-to-income ratios must be considered and verified, but the 43 percent threshold for qualified mortgages under the general definition does not apply.

A small creditor that satisfies the exemption criteria in 12 CFR 1026.35(b)(2)(iii)(B) and (C) is eligible to make small creditor portfolio qualified mortgages. (In contrast to 12 CFR 1026.43(f), below, eligibility for this qualified mortgage category is not conditioned

[31] HUD adopted a final rule, effective January 10, 2014, to establish a definition of "qualified mortgage" for the single family residential loans that HUD insures, guarantees, or administers that aligns with the statutory ability-to-repay criteria of TILA and the regulatory criteria of the definition of "qualified mortgage" promulgated by the CFPB (78 Fed. Reg. 75215 [December 11, 2013]). Loans meeting the rule's definition are qualified mortgages in accordance with Dodd–Frank (15 USC 1639c(b)(3)(B)(ii)(I)). The VA similarly adopted an interim final rule designating qualified mortgage status for certain VA-guarantee and VA-insured loans, as well as loans the VA makes directly to borrowers (79 Fed. Reg. 26620 [May 9, 2014]).

on the small creditor operating predominantly in a rural or underserved area.) For a period of three years after consummation, the creditor may not transfer the loan, or the loan will lose its status as a qualified mortgage. The qualified mortgage status continues under 12 CFR 1026.43(e)(5)(ii), however, if the creditor transfers the loan to another creditor that meets the requirements to be a small lender, or when the loan is transferred due to a capital restoration plan, bankruptcy, or state or federal governmental agency order, or if the mortgage is transferred pursuant to a merger or acquisition of the creditor. A qualified mortgage can be transferred after three years without losing its status.

Small Creditor Rural or Underserved Balloon-Payment Qualified Mortgages and Temporary Balloon-Payment Qualified Mortgages—12 CFR 1026.43(f) and 1026.43(e)(6)

Balloon-payment mortgages are qualified mortgages under 12 CFR 1026.43(f) if they are originated and held in portfolio by small creditors operating predominantly in rural or underserved areas and meet certain other requirements. These mortgages must satisfy certain requirements applicable to qualified mortgages, including prohibitions on negative-amortization and interest-only features; maximum loan terms of 30 years; and points-and-fees restrictions. These loans must have a term of at least five years, a fixed interest rate, and meet certain basic underwriting standards; debt-to-income ratios must be considered and verified, but the 43 percent threshold for qualified mortgages under the general definition does not apply. The rule also requires that the creditor consider and verify the consumer's current or reasonably expected income or assets and current debt obligations, alimony, and child support, but without regard to the standards in appendix Q. This category of qualified mortgages is not available for a loan that, at origination, is subject to a forward commitment to be acquired by a person that does not itself qualify for the category (under the requirements outlined in the next paragraph).

A small creditor that satisfies the exemption criteria in 12 CFR 1026.35(b)(2)(iii)(A), (B), and (C) (higher-priced mortgage escrow requirements) is eligible to make rural or underserved balloon-payment qualified mortgages. For a period of three years after consummation, the creditor may not transfer the loan, or it will lose its status as a qualified mortgage. The qualified mortgage status continues under 12 CFR 1026.43(f)(2), however, if the creditor transfers the loan to another creditor that meets the requirements to be a small rural lender, or when the loan is transferred due to a capital restoration plan, bankruptcy, or state or federal governmental agency order, or if the mortgage is transferred pursuant to a

merger or acquisition of the creditor. A qualified mortgage can be transferred after three years without losing its status.

There is also a temporary qualified mortgage definition for balloon-payment mortgages that would otherwise meet the requirements of 12 CFR 1026.43(f), but that are originated by small creditors that do not operate predominantly in rural or underserved areas. This category is applicable to covered transactions consummated on or before January 10, 2016.

Subpart F—Special Rules for Private Education Loans

Special Disclosure Requirements for Private Education Loans—12 CFR 1026.46

The disclosures required under subpart F apply only to private education loans. Except where specifically provided otherwise, the requirements and limitations of subpart F are in addition to the requirements of the other subparts of Regulation Z.

A private education loan means an extension of credit that

- is not made, insured, or guaranteed under title IV of the Higher Education Act of 1965;
- is extended to a consumer expressly, in whole or part, for postsecondary educational expenses, regardless of whether the loan is provided by the educational institution that the student attends; and
- does not include open-end credit or any loan that is secured by real property or a dwelling.

A private education loan does not include an extension of credit in which the covered educational institution is the creditor if

- the term of the extension of credit is 90 days or less, or
- an interest rate will not be applied to the credit balance and the term of the extension of credit is one year or less, even if the credit is payable in more than four installments.

Content of Disclosures—12 CFR 1026.47

Disclosure Requirements

This section establishes the content that a creditor must include in its disclosures to a consumer at three different stages in the private education loan origination process:

- **Application or solicitation disclosures:** With any application or solicitation.
- **Approval disclosures:** With any notice of approval of the private education loan.
- **Final disclosures:** After the consumer accepts the loan. In addition, 12 CFR 1026.48(d) requires that the disclosures must be provided at least three business days before disbursement of the loan funds.

Rights of the Consumer

The creditor must disclose that, if approved for the loan, the consumer has the right to accept the loan on the terms approved for up to 30 calendar days. The disclosure must inform the consumer that the rate and terms of the loan will not change during this period, except for changes to the rate based on adjustments to the index used for the loan and other changes permitted by law. The creditor must disclose that the consumer also has the right to cancel the loan, without penalty, until midnight of the third business day following the date on which the consumer receives the final disclosures.

Limitations on Private Educational Loans—12 CFR 1026.48

This section contains rules and limitations on private education loans, including

- a prohibition on co-branding in the marketing of private education loans.
- rules governing the 30-day acceptance period and three business-day cancellation period and prohibition on disbursement of loan proceeds until the cancellation period has expired.
- the requirement that the creditor obtain a self-certification form from the consumer before consummation.
- the requirement that creditors in preferred lender arrangements provide certain information to covered educational institutions.

Co-Branding Prohibited—12 CFR 1026.48(a) and (b)

Regulation Z prohibits creditors from using the name, emblem, mascot, or logo of a covered educational institution (or other words, pictures, or symbols readily identified with a covered institution) in the marketing of private education loans in a way that implies endorsement by the educational institution. Marketing that refers to an educational institution does not imply endorsement if the marketing includes a clear and conspicuous disclosure that is equally prominent and closely proximate to the reference to the institution that the educational institution does not endorse the creditor's loans, and that the creditor is not affiliated with the educational institution. There is also an exception in cases when the educational institution actually does endorse the creditor's loans, but the marketing must make a clear and conspicuous disclosure that is equally prominent and closely proximate to the reference to the institution that the creditor, and not the educational institution, is making the loan.

Subpart D—Miscellaneous

Civil Liability—TILA Sections 129B, 129C, 130, and 131

If a creditor fails to comply with any requirements of TILA, other than with the advertising provisions of chapter 3, it may be held liable to the consumer for

- actual damages, and

- the cost of any successful legal action together with reasonable attorney's fees.

The creditor also may be held liable for any of the following:

- In an individual action, twice the amount of the finance charge involved.
- In an individual action relating to an open-end credit transaction that is not secured by real property or a dwelling, twice the amount of the finance charge involved, with a minimum of $500 and a maximum of $5,000 or such higher amount as may be appropriate in the case of an established pattern or practice of such failure.
- In an individual action relating to a closed-end credit transaction secured by real property or a dwelling, not less than $400 and not more than $4,000.
- In a class action, such amount as the court may allow (with no minimum recovery for each class member). The total amount of recovery in any class actions arising out of the same failure to comply by the same creditor, however, cannot be more than $1 million or 1 percent of the creditor's net worth, whichever is less.

A creditor that fails to comply with section 129 of TILA, 15 USC 1639 (requirements for certain mortgages), may be held liable to the consumer for all finance charges and fees paid by the consumer unless the creditor demonstrates that the failure was not material. A mortgage originator that is not a creditor and that fails to comply with section 129B (requirements for mortgage loan originators) also may be liable to consumers for the greater of actual damages or an amount equal to three times the total amount of direct and indirect compensation or gain to the mortgage originator in connection with the loan, plus costs, including reasonable attorney's fees. In addition, TILA section 130(a) provides that a creditor may be liable for failure to comply with the ability-to-repay requirements of TILA section 129C(a) unless the creditor demonstrates that the failure to comply was not material.

Generally, civil actions that may be brought against a creditor may be maintained against any assignee of the creditor only if the violation is apparent on the face of the disclosure statement or other documents assigned, except when the assignment was involuntary. For high-cost mortgage loans (under 12 CFR 1026.32(a)), any subsequent purchaser or assignee is subject to all claims and defenses that the consumer could assert against the creditor, unless the assignee demonstrates that it could not reasonably have determined that the loan was a high-cost mortgage loan subject to 12 CFR 1026.32.

In specified circumstances, the creditor or assignee has no liability if it corrects identified errors within 60 days of discovering the errors and before the institution of a civil action or the receipt of written notice of the error from the obligor. Additionally, a creditor and assignee will not be liable for bona fide errors that occurred despite the maintenance of procedures reasonably adapted to avoid any such error.

Moreover, TILA also provides consumers with the right to assert a violation of TILA's anti-steering provisions or the ability-to-repay standards for residential mortgage loan requirements "as a matter of defense by recoupment or setoff" against a foreclosure action. In general, the amount of recoupment or setoff shall be equal to the amount that the consumer

would be entitled to generally under 15 USC 1640(a) for a valid claim, plus the cost to the consumer of the action (including reasonable attorney's fees).

Refer to sections 129B, 129C, 130, and 131 of TILA for more information.

Criminal Liability—TILA Section 112

Anyone who willingly and knowingly fails to comply with any requirement of TILA will be fined not more than $5,000 or imprisoned not more than one year, or both.

Administrative Actions—TILA Section 108

TILA authorizes federal regulatory agencies to require financial institutions to make monetary and other adjustments to the consumers' accounts when the true finance charge or APR exceeds the disclosed finance charge or APR by more than a specified accuracy tolerance. That authorization extends to unintentional errors, including isolated violations (e.g., an error that occurred only once or errors, often without a common cause, that occurred infrequently and randomly).

Under certain circumstances, TILA requires federal regulatory agencies to order financial institutions to reimburse consumers when understatement of the APR or finance charge involves

- patterns or practices of violations (e.g., errors that occurred, often with a common cause, consistently or frequently, reflecting a pattern with a specific type or types of consumer credit);
- gross negligence; or
- willful noncompliance intended to mislead the person to whom the credit was extended.

Any proceeding that may be brought by a regulatory agency against a creditor may be maintained against any assignee of the creditor if the violation is apparent on the face of the disclosure statement or other documents assigned, except when the assignment was involuntary under section 131 (15 USC 1641).

Relationship to State Law—TILA Section 111

State laws providing rights, responsibilities, or procedures for consumers or financial institutions for consumer credit contracts may be

- preempted by federal law.
- not preempted by federal law.
- substituted in lieu of the TILA and Regulation Z requirements.

State law provisions are preempted to the extent that they contradict the requirements in the following chapters of TILA and the implementing sections of Regulation Z:

- Chapter 1, "General Provisions," which contains definitions and acceptable methods for determining finance charges and APRs.
- Chapter 2, "Credit Transactions," which contains disclosure requirements, rescission rights, and certain credit card provisions.
- Chapter 3, "Credit Advertising," which contains consumer credit advertising rules and APR oral disclosure requirements.

For example, a state law would be preempted if it required a bank to use the terms "nominal annual interest rate" in lieu of "annual percentage rate."

Conversely, state law provisions are generally not preempted under federal law if they call for, without contradicting chapters 1, 2, or 3 of TILA or the implementing sections of Regulation Z, either of the following:

- Disclosure of information not otherwise required. A state law that requires disclosure of the minimum periodic payment for open-end credit, for example, would not be preempted because it does not contradict federal law.
- Disclosures more detailed than those required. A state law that requires itemization of the amount financed, for example, would not be preempted, unless it contradicts federal law by requiring the itemization to appear with the disclosure of the amount financed in the segregated closed-end credit disclosures.

The relationship between state law and chapter 4 of TILA ("Credit Billing") involves two parts. The first part is concerned with sections 161 (correction of billing errors) and 162 (regulation of credit reports) of the act; the second part addresses the remaining sections of chapter 4.

TILA preempts state law provisions if they are inconsistent with the rights, responsibilities, or procedures contained in sections 161 or 162. An exception is made, however, for state law that allows a consumer to inquire about an account and requires the bank to respond to such inquiry beyond the time limits provided by federal law. Such a state law would not be preempted for the extra time period.

State law provisions are preempted if they result in violations of sections 163 through 171 of chapter 4. For example, a state law that allows the card issuer to offset the consumer's credit-card indebtedness against funds held by the card issuer would be preempted, since it would violate 12 CFR 1026.12(d). Conversely, a state law that requires periodic statements to be sent more than 14 days before the end of a free-ride period would not be preempted, since no violation of federal law is involved.

A bank, state, or other interested party may ask the CFPB to determine whether state law contradicts chapters 1 through 3 of TILA or Regulation Z. They also may ask if the state law is different from, or would result in violations of, chapter 4 of TILA and the implementing provisions of Regulation Z. If the CFPB determines that a disclosure required by state law (other than a requirement relating to the finance charge, APR, or the disclosures required under 12 CFR 1026.32) is substantially the same in meaning as a disclosure required under

the act or Regulation Z, generally creditors in that state may make the state disclosure in lieu of the federal disclosure.

Specific Defenses—TILA Section 108

Defense Against Civil, Criminal, and Administrative Actions

A financial institution in violation of TILA generally may avoid liability by

- discovering the error before an action is brought against the financial institution, or before the consumer notifies the financial institution, in writing, of the error.
- notifying the consumer of the error within 60 days of discovery.
- making the necessary adjustments to the consumer's account, also within 60 days of discovery. (The consumer will pay no more than the lesser of the finance charge actually disclosed or the dollar equivalent of the APR actually disclosed.)

The above three actions also may allow the financial institution to avoid a regulatory order to reimburse the customer.

An error is "discovered" if it is

- discussed in a final, written report of examination.
- identified through the financial institution's own procedures.
- an inaccurately disclosed APR or finance charge included in a regulatory agency notification to the financial institution.

When a disclosure error occurs, the financial institution is not required to re-disclose after a loan has been consummated or an account has been opened. If the financial institution corrects a disclosure error by merely re-disclosing required information accurately, without adjusting the consumer's account, the financial institution may still be subject to civil liability and an order to reimburse from its regulator.

The circumstances under which a financial institution may avoid liability under TILA do not apply to violations of the Fair Credit Billing Act (chapter 4 of TILA).

Additional Defenses Against Civil Actions

The financial institution generally may avoid liability in a civil action if it shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error that occurred despite the maintenance of procedures to avoid the error.

A bona fide error may include a clerical, calculation, computer malfunction, programming, or printing error. It does not include an error of legal judgment.

Showing that a violation occurred unintentionally could be difficult if the financial institution is unable to produce evidence that explicitly indicates it has an internal controls program designed to ensure compliance. The financial institution's demonstrated commitment to compliance and its adoption of policies and procedures to detect errors before disclosures are furnished to consumers could strengthen its defense.

Statute of Limitations—TILA Sections 108, 129, 129B, 129C, and 130

Civil actions may be brought within one year after the violation occurred. For private education loans, civil actions may be brought within one year from the date on which the first regular payment of principal is due. After that time, and if allowed by state law, the consumer may still assert the violation as a defense if a financial institution were to bring an action to collect the consumer's debt.

The statute of limitations for a violation of 15 USC 1639 (requirements for certain mortgages), 15 USC 1639b (residential mortgage loan origination), or 15 USC 1639c (minimum standards for mortgages) is three years from the date of the occurrence of the violation (compared with one year for most other TILA violations) (15 USC 1640(e)). [32]

Moreover, TILA provides that when a creditor, assignee, other holder, or anyone acting on such a person's behalf initiates a foreclosure action on, or any other action to collect the debt in connection with, a residential mortgage loan, a consumer may assert a violation of TILA section 129C(a) "as a matter of defense by recoupment or setoff" (TILA section 130(k)). There is no time limit on the use of this defense, and the amount of recoupment or setoff is limited, with respect to the special statutory damages, to no more than three years of finance charges and fees.

Criminal actions are not subject to the TILA one-year statute of limitations.

Regulatory administrative enforcement actions also are not subject to the one-year statute of limitations. Actions brought under section 129, 129B, or 129C and actions brought by a state attorney general to enforce a violation of section 129, 129B, 129C, 129D, 129E, 129F, 129G, or 129H may be brought not later than three years after the date on which the violation occurs. Actions involving private education loans defined under 15 USC 1650(a) may be brought not later than one year from the due date of the first regular payment of principal (TILA section 130(e)).

Enforcement actions under the policy guide involving erroneously disclosed APRs and finance charges, however, are subject to time limitations by TILA. Those limitations range from the date of the last regulatory examination of the financial institution to as far back as 1969, depending on when loans were made, when violations were identified, whether the violations were repeat violations, and other factors.

[32] 15 USC 1639, 1639b, 1639c, and 1640.

There is no time limitation on willful violations intended to mislead the consumer. A summary of the various time limitations follows.

- For open-end credit, reimbursement applies to violations not older than two years.
- For closed-end credit, the OCC directs reimbursement for loans with violations occurring since the immediately preceding examination.

Rescission Rights (Open-End and Closed-End Credit)—12 CFR 1026.15 and 1026.23

TILA provides that for certain transactions secured by the consumer's principal dwelling, a consumer has three business days after becoming obligated on the debt to rescind the transaction. The right of rescission allows consumer(s) time to reexamine their credit agreements and cost disclosures and to reconsider whether they want to place their homes at risk by offering them as security for the credit. A higher-priced mortgage loan (whether or not it is a HOEPA loan) having a prepayment penalty that does not conform to the prepayment penalty limitations (12 CFR 1026.32(c) and (d) and 12 CFR 1026.43(g), subject to certain exclusions) is also subject to a three-year right of rescission. Transactions exempt from the right of rescission include residential mortgage transactions (12 CFR 1026.2(a)(24)) and refinancings or consolidations with the original creditor when no "new money" is advanced.

If a transaction is rescindable, consumers must be given a notice explaining that the creditor has a security interest in the consumer's home, that the consumer may rescind, how the consumer may rescind, the effects of rescission, and the date the rescission period expires.

To rescind a transaction, a consumer must notify the creditor in writing by midnight of the third business day after the latest of three events:

- Consummation of the transaction;
- Delivery of material TILA disclosures; or
- Receipt[33] of the required notice of the right to rescind.

For purposes of rescission, business day means every calendar day except Sundays and the legal public holidays (12 CFR 1026.2(a)(6)). The term "material disclosures" is defined in 12 CFR 1026.23(a)(3) to mean the required disclosures of the APR, the finance charge, the amount financed, the total of payments, the payment schedule, and the disclosures and limitations referred to in 12 CFR 1026.32(c) and (d) and 12 CFR 1026.43(g).

[33] 12 CFR 1026.15(b) and 1026.23(b)(1) were amended to include the electronic delivery of the notice of the right to rescind. If a paper notice of the right to rescind is used, a creditor must deliver two copies of the notice to each consumer entitled to rescind. Under the final rule on electronic delivery of disclosures, however, if the notice is in electronic form, in accordance with the consumer consent and other applicable provisions of the E-Sign Act, only one copy to each customer is required.

The creditor may not disburse any monies (except into an escrow account) and may not provide services or materials until the three-day rescission period has elapsed and the creditor is reasonably satisfied that the consumer has not rescinded. If the consumer rescinds the transaction, the creditor must refund all amounts paid by the consumer (even amounts disbursed to third parties) and terminate its security interest in the consumer's home.

A consumer may waive the three-day rescission period and receive immediate access to loan proceeds if the consumer has a "bona fide personal financial emergency." The consumer must give the creditor a signed and dated waiver statement that describes the emergency, specifically waives the right, and bears the signatures of all consumers entitled to rescind the transaction. The consumer provides the explanation for the bona fide personal financial emergency, but the creditor decides the sufficiency of the emergency.

If the required rescission notice or material TILA disclosures are not delivered or if they are inaccurate, the consumer's right to rescind may be extended from three days after becoming obligated on a loan to up to three years.

Interagency Administrative Enforcement Policy

On September 8, 1998, the federal financial regulatory agencies issued a revised "Joint Statement of Policy on the Administrative Enforcement of the TILA—Restitution." (See this booklet's "References" section.) The policy summarizes and explains how the agencies interpret the reimbursement provisions of section 108(e) of TILA. It also describes corrective actions the financial regulatory agencies believe appropriate.

The regulatory agencies anticipate that most banks will comply voluntarily with the reimbursement provisions of TILA. If a bank does not act voluntarily to correct violations, however, the agencies generally are required by law to use their cease-and-desist authority to order correction of a clear and consistent pattern or practice of violations, gross negligence, or a willful violation that was intended to mislead the person to whom the credit was extended.

Enforcement Policy Applicability to Indirect Paper

Even if a third party other than the bank makes an improper disclosure on a loan for which the bank is the creditor (i.e., if the bank is the entity to which the obligation is initially payable), the bank is cited for the violation and may be required to reimburse affected consumers under the enforcement policy. See also the OCC's "Retail Lending Examination Procedures" *Comptroller's Handbook* booklet.

If the third party is the creditor, a bank's acceptance of the third party's disclosures containing reimbursable violations normally reflects only a need for improved internal controls. If affected consumers have not been reimbursed, however, the OCC will report such third-party violations (consistent with the requirements of the Right to Financial Privacy Act of 1978) to the national headquarters of the regulatory agency supervising the creditor.

Examination Procedures

This booklet contains objectives and expanded procedures for examining compliance with TILA. Examiners decide which of these objectives and procedures are relevant to the scope of the examination during examination planning or after drawing preliminary conclusions during the compliance core assessment as outlined in the "Community Bank Supervision," "Large Bank Supervision," or "Federal Branches and Agencies Supervision" booklet of the *Comptroller's Handbook*.

Objective: To determine whether the bank has policies and procedures designed to assure compliance with TILA and Regulation Z.

Review the adequacy of the bank's policies and procedures by using the TILA worksheets.

Objective: To determine the bank's level of compliance with TILA and Regulation Z.

Determine the bank's level of compliance by using the TILA worksheets.

Summary of TILA Worksheets

Loan type	Worksheets
Closed-end consumer (not secured by real estate)	Worksheet 3: Closed-End Credit Forms Review
	Worksheet 5: Closed-End Credit File Review
Closed-end consumer (secured by real estate)	Worksheet 3: Closed-End Credit Forms Review
	Worksheet 5: Closed-End Credit File Review
	Worksheet 7: Right of Rescission File Review
	Worksheet 13: Special Rules for Certain Home Mortgage Transactions File Review
	Worksheet 15: High-Cost Mortgages
Closed-end residential mortgage	Worksheet 3: Closed-End Credit Forms Review
	Worksheet 5: Closed-End Credit File Review
	Worksheet 7: Right of Rescission File Review
	Worksheet 13: Special Rules for Certain Home Mortgage Transactions File Review
	Worksheet 15: High-Cost Mortgages
Adjustable rate mortgage	Worksheet 3: Closed-End Credit Forms Review
	Worksheet 5: Closed-End Credit File Review
	Worksheet 4: Closed-End Credit (ARM) Forms Review
	Worksheet 6: Closed-End Credit—ARM File Review
	Worksheet 7: Right of Rescission File Review
	Worksheet 13: Special Rules for Certain Home Mortgage Transactions File Review
	Worksheet 15: High-Cost Mortgages
Home equity loan	Worksheet 3: Closed-End Credit Forms Review
	Worksheet 5: Closed-End Credit File Review
	Worksheet 7: Right of Rescission File Review
	Worksheet 13: Special Rules for Certain Home Mortgage Transactions File Review
	Worksheet 15: High-Cost Mortgages
Open-end home-secured	Worksheet 7: Right of Rescission File Review
	Worksheet 9: Open-End Home-Secured Credit Forms Review
	Worksheet 11: Open-End Credit File Review
	Worksheet 12: Home Equity Line of Credit File Review
	Worksheet 13: Special Rules for Certain Home Mortgage Transactions File Review
	Worksheet 14: Periodic Statements for Open-End Credit
	Worksheet 15: High-Cost Mortgages
Open-end not home-secured	Worksheet 8: Open-End Not Home-Secured Credit Forms Review
	Worksheet 10: Credit and Charge Card Forms Review
	Worksheet 11: Open-End Credit File Review
	Worksheet 14: Periodic Statements for Open-End Credit
	Worksheet 16: Special Credit Card Rules Review

Advertising, closed-end credit	Worksheet 1: Closed-End Credit Advertising
Advertising, open-end/HELOC	Worksheet 2: Open-End/Home Equity Line of Credit Advertising
Reimbursements, all loan types	Worksheet 17: Reimbursement Review

Worksheet 1:
Closed-End Credit Advertising

Use this worksheet when reviewing closed-end credit advertisements. To complete, review advertising files, including electronic advertisements, from the last 12 months and place a check in each applicable cell. Use this worksheet to review audit work papers, evaluate bank policies, and perform expanded procedures and training, as appropriate. Only complete worksheet sections that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the work papers.

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. When performing expanded procedures, a "no" answer indicates a violation and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 1: Closed-End Credit Advertising			
Identify advertisement:			
Advertisement type:			
Date or period run:			
	Yes	**No**	**NA**
1. Are all required disclosures made clearly and conspicuously? [12 CFR 1026.24(b)] **Note:** Disclosures required by 12 CFR 1026.24 may be provided to the consumer in electronic form without regard to consumer consent or other provisions of the E-Sign Act in the circumstances set forth in those sections. [12 CFR 1026.17(a)(1)]			
2. If an advertisement for credit states specific credit terms, does it state only those terms that actually are or will be arranged or offered by the creditor? [12 CFR 1026.24(a)]			
3. If the advertisement states a rate of finance charge, is it stated as an "annual percentage rate"? [12 CFR 1026.24(c)]			
4. Is the APR stated more conspicuously than (i) for dwelling-secured credit, the simple annual rate, or (ii) for non-dwelling-secured credit, the simple annual rate or periodic rate (if stated)? Does the advertisement refrain from stating any other rate? [12 CFR 1026.24(c)]			
5. If the APR is stated and may be increased after consummation, does the advertisement state that fact? [12 CFR 1026.24(c)]			
6. If triggering terms were used (see 12 CFR 1026.24(d)(1)), did the advertisement include, as applicable, a. amount or percentage of down payment? [12 CFR 026.24(d)(2)(i)] b. repayment terms over the full term of the loan, including any balloon payment? [12 CFR 1026.24(d)(2)(ii)] c. APR? [12 CFR 1026.24(d)(2)(iii)] d. the fact that the APR may be increased after consummation, if applicable? [12 CFR 1026.24(d)(2)(iii)]			

Worksheet 1: Closed-End Credit Advertising			
Identify advertisement:			
Advertisement type:			
Date or period run:			
	Yes	**No**	**NA**
7. If an advertisement for credit secured by a dwelling states a simple annual rate of interest and more than one simple annual rate of interest applies over the term of the advertised loan, does the advertisement disclose in a clear and conspicuous manner a. each simple annual rate of interest that applies; for variable-rate transactions, are rates disclosed based on reasonably current index and margin? b. time period during which each simple annual rate of interest applies? c. APR for the loan; if the APR is variable, does the APR comply with accuracy standards in 12 CFR 1026.17(c) and 1026.22? [12 CFR 1026.24(f)(2)]			
8. If an advertisement for credit secured by a dwelling states the amount of any payment, does the advertisement disclose in a clear and conspicuous manner a. amount of each payment that applies over the term of the loan, including any balloon payment; in variable-rate transactions, are payments disclosed based on a reasonably current index and margin? b. period of time during which each payment applies? c. for first-lien loans, the fact that payments do not include amounts for taxes and insurance premiums, if applicable, and that actual payment obligation will be greater? [12 CFR 1026.24(f)(3)] **Note**: Steps 7 and 8 do not apply to an envelope in which an application or solicitation is mailed, or to a banner advertisement or pop-up advertisement linked to an application or solicitation provided electronically. [12 CFR 1026.24(f)(4)] Also, steps 7 and 8 do not apply to television and radio advertising; see 12 CFR 1026.23(g) for alternative requirements.			
9. If an advertisement distributed in paper form or through the Internet is for a loan secured by the consumer's principal dwelling, and the advertisement states that the advertised extension of credit may exceed the dwelling's fair market value, does the advertisement clearly and conspicuously state that a. the interest on the portion of the credit extension that is greater than the dwelling's fair market value is not tax deductible for federal income tax purposes? [12 CFR 1026.24(h)(1)] b. the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges? [12 CFR 1026.24(h)(2)]			
10. Are advertisements for credit secured by a dwelling void of misleading statements, including a. misleading advertising of "fixed" rates and payments? [12 CFR 1026.24(i)(1)] b. misleading comparisons in advertisements? [12 CFR 1026.24(i)(2)] c. misrepresentations about government endorsements? [12 CFR 1026.24(i)(3)] d. misleading use of the current lender's name? [12 CFR 1026.24(i)(4)] e. misleading claims of debt elimination? [12 CFR 1026.24(i)(5)] f. misleading use of the term "counselor"? [12 CFR 1026.24(i)(6)] g. misleading foreign-language advertisements? [12 CFR 1026.24(i)(7)]			

Worksheet 2: Open-End/Home Equity Line of Credit Advertising

Use this worksheet when reviewing open-end and HELOC advertisements. To complete, review advertising files, including electronic advertisements, from the last 12 months and place a check in each applicable cell. Use this worksheet to review audit work papers, evaluate bank policies, and perform expanded procedures and training, as appropriate. Only complete worksheet sections that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the work papers.

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. When performing expanded procedures, a "no" answer indicates a violation and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 2: Open-End/Home Equity Line of Credit Advertising			
Identify advertisement:			
Advertisement type:			
Date of period run:			
	Yes	**No**	**NA**
1. If credit terms are specific, are terms stated that actually are or will be arranged or offered by the creditor? [12 CFR 1026.16(a)]			
2. If triggering terms were used on any open-end plan advertisement (12 CFR 1026.6(b)), did the advertisement also clearly and conspicuously include a. any minimum, fixed, transaction, activity, or similar fee that is a finance charge that could be imposed? [12 CFR 1026.16(b)(1)(i)] b. any periodic rates stated as an APR? [12 CFR 1026.16(b)(1)(ii)] c. the fact that the plan provides for a variable periodic rate, if applicable? [12 CFR 1026.16(b)(1)(ii)] d. any membership or participation fee that could be imposed? [12 CFR 1026.16(b)(1)(iii)] **Note:** Disclosures required by 12 CFR 1026.60, 1026.40, and 1026.16 may be provided to consumers in electronic form without regard to consumer consent or other provisions of the E-Sign Act in the circumstances set forth in those sections. [12 CFR 1026.5(a)(iii)] Also, there are alternative disclosure requirements allowed for radio and television advertisements. [12 CFR 1026.16(e)]			
3. If an advertisement refers to an APR as fixed (or similar term), does the advertisement also specify a time period for which the rate will be fixed and not increase; or if no such time period is provided, will the rate not increase while the plan is open? [12 CFR 1026.16(f)]			
4. For open-end (not home-secured) plans, for any APR or fee that is an introductory rate or fee, is the term "introductory" or "intro" in immediate proximity to each listing of the introductory rate or fee? [12 CFR 1026.16(g)(3)]			

Worksheet 2: Open-End/Home Equity Line of Credit Advertising			
Identify advertisement:			
Advertisement type:			
Date of period run:			
	Yes	**No**	**NA**
5. For open-end (not home-secured) plans, are the required disclosures for any promotional rate under 12 CFR 1026.16(g)(2)(i) or any promotional fee under 12 CFR 1026.16(g)(2)(iv) made in a clear and conspicuous manner; and if the rate or fee is stated in a written or electronic advertisement, in a prominent location closely proximate to the first listing of the promotional rate or fee? [12 CFR 1026.16(g)(4)]			
6. For open-end (not home-secured) plans, do the disclosures for any promotional APR or promotional fee include, in a clear and conspicuous manner, when the promotional rate or promotional fee will end and what APR or fee will apply after the end of the promotional period? [12 CFR 1026.16(g)(4)(i), (ii), and (iii)] If the APR is variable, did the APR comply with the accuracy standards in 12 CFR 1026.60(c)(2), 1026.60(d)(3), 1026.60(e)(4), or 1026.16(b)(1)(ii), as applicable? [12 CFR 1026.16(g)(4)(ii)] If such rate cannot be determined at the time disclosures are given because the rate depends at least in part on a later determination of the consumer's creditworthiness, does the advertisement disclose, in a clear and conspicuous manner, the specific rates or the range of rates that might apply? [12 CFR 1026.16(g)(4)(ii)]			
7. If a deferred interest offer is advertised for an open-end credit plan not subject to 12 CFR 1026.40, is the deferred interest period stated in a clear and conspicuous manner in the advertisement? [12 CFR 1026.16(h)(3)] If the phrase "no interest" or similar term regarding the possible avoidance of interest obligations under the deferred interest program is stated, is the term "if paid in full" stated in a clear and conspicuous manner preceding the disclosure of the deferred interest period in the advertisement? [12 CFR 1026.16(h)(3)] If the deferred interest offer is included in a written or electronic advertisement, are the deferred interest period and, if applicable, the term "if paid in full," stated in immediate proximity to each statement of "no interest," "no payments," "deferred interest," "same as cash," or similar term regarding interest or payments during the deferred interest period? [12 CFR 1026.16(h)(3)]			
8. If any deferred interest offer is advertised for an open-end credit plan not subject to 12 CFR 1026.40, are the language requirements of 12 CFR 1026.16(h)(4)(i) and 1026.16(h)(4)(ii) stated in the advertisement and are they similar to Sample G-24 in appendix G? If the deferred interest offer is included in a written or electronic advertisement, is this information stated in a prominent location closely proximate to the first statement of "no interest," "no payments," "deferred interest," "same as cash," or similar term regarding interest or payments during the deferred interest period? [12 CFR 1026.16(h)(4)] **Note**: Steps 5, 6, and 8 do not apply to an envelope or other enclosure in which an application or solicitation is mailed, or to a banner advertisement or pop-up advertisement linked to an application or solicitation provided electronically. [12 CFR 1026.16(h)(5)]			
9. Does the creditor refrain from offering a college student any tangible item to induce such student to apply for, or open, an open-end consumer credit plan if such offer is made on or near the campus of an institution of higher education, or at an event sponsored by or related to an institution of higher education? [12 CFR 1026.57(c)]			
Additional Requirements for Home Equity Lines of Credit [12 CFR 1026.40]			
10. If triggering terms were used (12 CFR 1026.16(b)), or the payment terms were set forth for a HELOC, did the advertisement also include, clearly and conspicuously,			

Worksheet 2: Open-End/Home Equity Line of Credit Advertising			
Identify advertisement:			
Advertisement type:			
Date of period run:			
	Yes	**No**	**NA**
a. any loan fee that is a percentage of the credit limit? [12 CFR 1026.16(d)(1)(i)] b. an estimate of any other fees for opening the plan stated as a single dollar amount or reasonable range? [12 CFR 1026.16(d)(1)(i)] c. any periodic rate stated as an APR? [12 CFR 1026.16(d)(1)(ii)] d. the highest APR that may be imposed for a variable-rate plan? [12 CFR 1026.16(d)(1)(iii)] **Note:** There are alternative disclosures allowed for radio and television advertising. [12 CFR 1026.16(e)]			
11. For HELOCs, if a discounted or premium rate plan, does the advertisement state how long the initial APR will be in effect and provide a reasonably current, fully indexed APR with equal prominence and in close proximity to the initial rate? [12 CFR 1026.16(d)(2)]			
12. For HELOCs, if a minimum periodic payment is disclosed, does the advertisement disclose, if applicable, and with equal prominence and in close proximity to the minimum periodic payment statement, the fact that a balloon payment may or will result and the amount and timing of the balloon payment if the consumer makes only minimum payments for the maximum permissible period? [12 CFR 1026.16(d)(3)]			
13. For HELOCs, if there is a reference to tax deductibility, does the reference refrain from misleading language? [12 CFR 1026.16(d)(4)]			
14. If an advertisement distributed in paper form or through the Internet is for a home-equity plan secured by the consumer's principal dwelling, and the advertisement states that the advertised extension of credit may exceed the fair market value of the dwelling, does the advertisement clearly and conspicuously state that a. the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for federal income tax purposes? [12 CFR 1026.16(d)(4)(i)] b. the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges? [12 CFR 1026.16(d)(4)(ii)]			
15. Does the advertisement refrain from misleading terms, such as referring to the HELOC as "free money"? [12 CFR 1026.16(d)(5)]			
16. For HELOCs, are the required disclosures for promotional APRs and payments made and are they clear and conspicuous and with equal prominence and close proximity to each listing of the promotional rate or payment? [12 CFR 1026.16(d)(6)(ii)]			
17. For HELOCs, do the promotional disclosures include, in a clear and conspicuous manner, the period of time during which the promotional rate or promotional payment will apply? [12 CFR 1026.16(d)(6)(ii)(A)]			
18. For HELOCs, do the promotional rate disclosures include, in a clear and conspicuous manner, any APR that will apply under the plan? And, if such rate is variable, is the APR disclosed in accordance with the accuracy standards in 12 CFR 1026.40 or 1026.16(b)(1)(ii), as applicable? [12 CFR 1026.16(d)(6)(ii)(B)]			

Worksheet 2: Open-End/Home Equity Line of Credit Advertising			
Identify advertisement:			
Advertisement type:			
Date of period run:			
	Yes	**No**	**NA**
19. For HELOCs, are the amounts and time period of any promotional payments that will apply under the plan disclosed in a clear and conspicuous manner? In variable-rate transactions, are the payments that will be determined based on application of an index and margin disclosed based on a reasonably current index and margin? [12 CFR 1026.16(d)(6)(ii)(C)] **Note**: Steps 16–19 do not apply to an envelope or other enclosure in which an application or solicitation is mailed, or to a banner advertisement or pop-up advertisement linked to an application or solicitation provided electronically. [12 CFR 1026.16(d)(6)(iii)]			
20. For television and radio advertisements stating any of the terms requiring additional disclosures under 12 CFR 1026.16(b)(1) or 1026.16(d)(1), did the advertisement either (a) comply as required by 12 CFR 1026.16(b)(1) or (d)(1); or (b) state the information required by 12 CFR 1026.16(b)(1)(ii) or (d)(1)(ii), as applicable and list a toll-free telephone number or any telephone number that allows a consumer to reverse the phone charges when calling for information, along with a reference that such number may be used by consumers to obtain the additional cost information? [12 CFR 1026.16(e)]			

Worksheet 3:
Closed-End Credit Forms Review

Use this worksheet when reviewing closed-end credit forms. To complete, review the forms, including those furnished to dealers, and place a check in each applicable cell. **Determine the accuracy of the disclosures by comparing them with the contract and other bank documents**. Forms that include or involve current transactions, such as change-in-terms notices, periodic billing statements, rescission notices, and billing error communications, are verified for accuracy when the file review worksheets are completed. Use this worksheet to review audit work papers, evaluate bank policies, and perform expanded procedures and training, as appropriate. Only complete worksheet sections that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the work papers.

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. When performing expanded procedures, a "no" answer indicates a violation and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 3: Closed-End Credit Forms Review			
Product type:			
	Yes	**No**	**NA**
1. Are required disclosures clear, conspicuous, grouped together, segregated, limited to information directly related to the required disclosures under 12 CFR 1026.18 and 1026.47, and in writing in a form the consumer can keep and as a separate document from all other written materials? [12 CFR 1026.17(a)(1)] **Note:** Closed-end disclosures may be provided to the consumer in electronic form, subject to compliance with consumer consent and other applicable provisions of the E-Sign Act. [12 CFR 1026.17(a)(1)]			
2. Except for private education loan disclosures, are the terms "finance charge" and "APR" together with the corresponding amount or percentage rate more conspicuous than other terms, except for the creditor's identity? [12 CFR 1026.17(a)(2)]			
3. For private education loan disclosures, is the term "APR" and the corresponding rate less conspicuous than the term "finance charge" and corresponding amount under 12 CFR 1026.18(d), interest rate, and notice of right to cancel? [12 CFR 1026.17(a)(2)]			
4. Is the creditor identified (may be apart from other disclosures)? [12 CFR 1026.18(a)]			
5. Is the "amount financed" (using that term) included and briefly described? [12 CFR 1026.18(b)]			
6. Is there a separate itemization of the amount financed or a statement that the consumer may request and receive a written itemization? [12 CFR 1026.18(c)] **Note:** The good faith estimate (GFE) may be substituted for the itemization of the amount financed. [12 CFR 1026.18(c)(3)]			
7. Is the "finance charge" (using that term) included and briefly described? [12 CFR 1026.18(d)]			
8. Is the "annual percentage rate" (using that term) included and briefly described, unless exempt? [12 CFR 1026.18(e)]			

Worksheet 3: Closed-End Credit Forms Review			
Product type:			
	Yes	**No**	**NA**
9. Do the disclosures for variable rate loans that are not secured by the customer's principal dwelling or, if secured by the consumer's principal dwelling, that have a term of one year or less, include a. circumstances that permit rate increases? [12 CFR 1026.18(f)(1)(i)] b. limits on the increase? [12 CFR 1026.18(f)(1)(ii)] c. effects of increase? [12 CFR 1026.18(f)(1)(iii)] d. hypothetical example of new payment terms? [12 CFR 1026.18(f)(1)(iv)]			
10. Unless the loan is subject to 12 CFR 1026.18(s), is the specified payment schedule included? [12 CFR 1026.18(g)]			
11. Unless it is a single payment loan, is the "total of payments" (using that term) included and described? [12 CFR 1026.18(h)]			
12. Is a demand feature disclosed, if applicable? [12 CFR 1026.18(i)]			
13. If a credit sale, is the "total sales price" (using that term) included and described? [12 CFR 1026.18(j)]			
14. Does the disclosure include whether or not a penalty or rebate is imposed for prepayment? [12 CFR 1026.18(k)]			
15. Is a late payment charge (dollar amount or percent) disclosed, if applicable? [12 CFR 1026.18(l)]			
16. Is there a security interest disclosure, if applicable? [12 CFR 1026.18(m)]			
17. If credit life insurance and debt cancellation premiums have been excluded from the finance charge, has the bank a. disclosed that insurance coverage is not required? b. disclosed the premium for the initial term? c. obtained the customer's signature or initials as an affirmative request for the insurance? [12 CFR 1026.18(n) and 1026.4(d)]			
18. If the property insurance premium has been excluded from the finance charge, has the bank a. disclosed that the consumer may choose the insurance company? b. disclosed the cost of the insurance for the initial term if obtained from or through the bank? [12 CFR 1026.18(n) and 1026.4(d)]			
19. Are the disclosures required under 12 CFR 1026.4(e) to exclude certain fees required by law, such as a filing fee or certain insurance premiums from the finance charge, provided? [12 CFR 1026.18(o)]			
20. Is there a statement referring to the contract document for specified information? [12 CFR 1026.18(p)]			
21. Is there an appropriate assumption disclosure for residential mortgage transactions? [12 CFR 1026.18(q)]			
22. If a deposit is required as a condition of the transaction, has the bank disclosed that the APR does not reflect its effect? [12 CFR 1026.18(r)]			
Note: The information in step 23 for 12 CFR 1026.18(s)(2)-(4) must be disclosed in the form of a table with no more than five columns, and with headings and format substantially similar to Model Clause H-4(E), H-4(F), H-4(G), or H-4(H) in appendix H of the regulation. The table should contain only the information required in 12 CFR 1026.18 (s)(2)-(4), be placed in a prominent location, and be in a minimum 10-point font. [(12 CFR 1026.18(s)(1)]			

Worksheet 3: Closed-End Credit Forms Review			
Product type:			
	Yes	**No**	**NA**
23. For a closed-end transaction, including home construction loans, secured by real property or a dwelling (other than a transaction secured by a consumer's interest in a time-share plan), did the creditor disclose the following information about the interest rate(s) and payments, as applicable: **Note:** See appendix D of Regulation Z for more information on construction loan disclosures. a. For a fixed-rate mortgage, the interest rate at consummation? [12 CFR 1026.18(s)(2)(i)(A)] b. For an ARM or step-rate mortgage, i. the interest rate at consummation and the period of time until the first interest rate adjustment may occur, labeled as the "introductory rate and monthly payment"? [12 CFR 1026.18(s)(2)(i)(B)(1)] **Note:** As set forth in comment 18(s)-1, if periodic payments are not due monthly, the creditor should use the appropriate term, such as "biweekly" or "quarterly." ii. the maximum interest rate that may apply during the first five years after the date on which the first regular periodic payment will be due and the earliest date on which that rate may apply, labeled as "maximum during first five years"? [12 CFR 1026.18(s)(2)(i)(B)(2)] iii. the maximum interest rate that may apply during the life of the loan and the earliest date on which that rate may apply, labeled as "maximum ever"? [12 CFR 1026.18(s)(2)(i)(B)(3)] c. For a loan that provides for payment increases occurring without regard to an interest rate adjustment (as described in 12 CFR 1026.18(s)(3)(i)(B)), including interest-only loans as discussed in comment 1 to 12 CFR 1026.18(s)(2)(i)(C), the interest rate in effect at the time the first such payment increase is scheduled to occur and the date on which the increase will occur, labeled as "first adjustment" if the loan is an ARM or, otherwise, labeled as "first increase"? [12 CFR 1026.18(s)(2)(i)(C)] d. For a negative amortization loan, i. the interest rate at consummation and, if it will adjust after consummation, the length of time until it will adjust, and the label "introductory" or "intro"? [12 CFR 1026.18(s)(2)(ii)(A)] ii. the maximum interest rate that could apply when the consumer must begin making fully amortizing payments under the terms of the legal obligation? [12 CFR 1026.18(s)(2)(ii)(B)] iii. if the minimum required payment will increase before the consumer must begin making fully amortizing payments, the maximum interest rate that could apply at the time of the first payment increase and the date the increase is scheduled to occur? [12 CFR 1026.18(s)(2)(ii)(C)] iv. if a second increase in the minimum required payment may occur before the consumer must begin making fully amortizing payments, the maximum interest rate that could apply at the time of the second payment increase and the date the increase is scheduled to occur? [12 CFR 1026.18(s)(2)(ii)(D)] e. For an amortizing ARM, if the interest rate at consummation is less than the fully indexed rate, the following (placed in a box directly beneath the table required by paragraph 18 (s)(1) of the regulation, in a format substantially similar to Model Clause H-4(I) in the regulation's appendix H),			

Worksheet 3: Closed-End Credit Forms Review			
Product type:			
	Yes	**No**	**NA**
i. the interest rate that applies at consummation and the period of time for which it applies? [12 CFR 1026.18(s)(2)(iii)(A)]			
ii. a statement that, even if market rates do not change, the interest rate will increase at the first adjustment and a designation of the place in sequence of the month or year, as applicable, of such rate adjustment (e.g., "in the third year")? [12 CFR 1026.18(s)(2)(iii)(B)]			
iii. the fully indexed rate? [12 CFR 1026.18(s)(2)(iii)(C)]			
f. If all periodic payments will be applied to accrued interest and principal, for each interest rate disclosed under 12 CFR 1026.18(s)(2)(i), amortizing loans,			
i. the corresponding periodic P + I payment, labeled as "principal and interest"? [12 CFR 1026.18(s)(3)(i)(A)]			
ii. if the periodic payment may increase without regard to an interest rate adjustment, the payment that corresponds to the first such increase and the earliest date on which the increase could occur? [12 CFR 1026.18(s)(3)(i)(B)]			
iii. if an escrow account is established, an estimate of the amount of taxes and insurance, including any mortgage insurance, payable with each periodic payment? [12 CFR 1026.18(s)(3)(i)(C)]			
iv. the sum of the amounts disclosed under 12 CFR 1026.18(s)(3)(i)(A) and (C) or (s)(3)(i)(B) and (C), as applicable, labeled as "total estimated monthly payment?" [12 CFR 1026.18(s)(3)(i)(D)]			
g. If the loan is an interest-only loan, for each interest rate disclosed under 12 CFR 1026.18(s)(2)(i), amortizing loans, the corresponding periodic payment and			
i. if the payment will be applied to only accrued interest, the amount applied to interest, labeled as "interest payment," and a statement that none of the payment is being applied to principal? [12 CFR 1026.18(s)(3)(ii)(A)]			
ii. if the payment will be applied to accrued interest and principal, an itemization of the amount of the first such payment applied to accrued interest and to principal, labeled as "interest payment" and "principal payment," respectively? [12 CFR 1026.18(s)(3)(ii)(B)]			
iii. the escrow information described in 12 CFR 1026.18(s)(3)(i)(C)?			
iv. the sum of all amounts required to be disclosed under 12 CFR 1026.18(s)(3)(ii)(A) and (C) or (s)(3)(ii)(B) and (C), as applicable, labeled as "total estimated monthly payment"? [12 CFR 1026.18(s)(3)(ii)(D)]			
h. If the loan is a negative amortization loan,			
i. the minimum periodic payment required until the first payment increase or interest rate increase, corresponding to the interest rate disclosed per 12 CFR 1026.18(s)(2)(ii)(A)? [12 CFR 1026.18(s)(4)(i)(A)]			
ii. the minimum periodic payment that would be due at the first payment increase and the second, if any, corresponding to the interest rates described in 12 CFR 1026.18(s)(2)(ii)(C) and (D)? [12 CFR 1026.18(s)(4)(i)(B)]			
iii. a statement that the minimum payment pays only some interest, does not repay any principal, and will cause the loan amount to increase? [12 CFR 1026.18(s)(4)(i)(C)]			
iv. the fully amortizing periodic payment amount at the earliest time when such a payment must be made, corresponding to the interest rate disclosed under 12 CFR 1026.18 (s)(2)(ii)(B)? [12 CFR 1026.18(s)(4)(ii)]			

Worksheet 3: Closed-End Credit Forms Review			
Product type:			
	Yes	**No**	**NA**
v. if applicable, in addition to the payments in 12 CFR 1026.18(s)(4)(i) and 1026.18(s)(4)(ii), for each interest rate disclosed under 12 CFR 1026.18(s)(2)(ii), the amount of the fully amortizing periodic payment, labeled as the "full payment option," and a statement that these payments pay all principal and all accrued interest? [12 CFR 1026.18(s)(4)(iii)]			
24. For a closed-end transaction secured by real property or a dwelling (other than a transaction secured by a consumer's interest in a time-share plan described in 11 USC 101(53D)) that is a negative amortization loan, is the following information disclosed (in close proximity to the table required in 12 CFR 1026.18(s)(1), with headings, content, and format substantially similar to Model Clause H-4(G) in appendix H to this part): a. The maximum interest rate, the shortest period of time in which such interest rate could be reached, the amount of estimated taxes and insurance included in each payment disclosed, and a statement that the loan offers payment options, two of which are shown? [12 CFR 1026.18(s)(6)(i)] b. The dollar amount of the increase in the loan's principal balance if the consumer makes only the minimum required payments for the maximum possible time and the earliest date on which the consumer must begin making fully amortizing payments, assuming that the maximum interest rate is reached at the earliest possible time? [12 CFR 1026.18(s)(6)(ii)]			
25. For a closed-end transaction secured by real property or a dwelling (other than a transaction secured by a consumer's interest in a time-share plan described in 11 USC 101(53D)) with balloon payments (defined as a payment that is more than two times a regular periodic payment), is the balloon payment disclosed as follows: a. Unless the balloon payment is scheduled to occur at the same time as another payment (see "b" below), the balloon payment is disclosed separately from other periodic payments disclosed in the table (i.e., it is outside the table and in a manner substantially similar to Model Clause H-4(J) in appendix H to the regulation)? [12 CFR 1026.18(s)(5)(i)] b. If the balloon payment is scheduled to occur at the same time as another payment required to be disclosed in the table, the balloon payment must be disclosed in the table? [12 CFR 1026.18(s)(5)(i)]			
26. For a closed-end transaction secured by real property or a dwelling (other than a transaction secured by a consumer's interest in a time-share plan described in 11 USC 101(53D), did the creditor disclose a statement that there is no guarantee the consumer can refinance the transaction to lower the interest rate or periodic payments? [12 CFR 1026.18(t)(1)] **Note:** The statement required by 12 CFR 1026.18(t)(1) should be in a form substantially similar to Model Clause H-4(K) in appendix H to the regulation. [12 CFR 1026.18(t)(2)]			
27. Is the maximum interest rate disclosed (variable rate)? [12 CFR 1026.30(a)]			
28. Has the creditor retained evidence of compliance with Regulation Z (other than the advertising requirements under 12 CFR 1026.16 and 1026.24) for two years after the date disclosures were required to be made or action was required to be taken? [12 CFR 1026.25(a)]			

Worksheet 4: Closed-End Credit (ARM) Forms Review

Use this worksheet when reviewing variable rate loans or ARMs with a maturity greater than one year secured by the principal dwelling of the borrower. To complete this worksheet, review the forms, including any electronic forms, and place a check in each applicable cell. **Determine the accuracy of the disclosures by comparing them with the contracts and other bank documents**. Forms that include or involve current transactions, such as change-in-terms notices, periodic billing statements, rescission notices, and billing error communications, are verified for accuracy when file review worksheets are completed. Use this worksheet to review audit work papers, evaluate bank policies, and perform expanded procedures and training, as appropriate. Only complete worksheet sections that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the work papers.

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. When performing expanded procedures, a "no" answer indicates a violation and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 4: Closed-End Credit (ARM) Forms Review			
Product type:			
	Yes	**No**	**NA**
Disclosure at Time of Application: Special Early Disclosures (One for Each Program in Which the Consumer Expresses an Interest) [12 CFR 1026.19(b)(2)]			
1. Are variable-rate program disclosures provided at the time of application or before the consumer pays any nonrefundable fee, whichever is earlier, or if the application is received from a mortgage broker or over the telephone, are they mailed within three business days following receipt of the application? [12 CFR 1026.19(b)] **Note:** The disclosures required by 12 CFR 1026.19(b) may be provided to the consumer in electronic form without regard to consumer consent or other provisions of the E-Sign Act in the circumstances set forth in those sections. [12 CFR 1026.17(a)(1)] Examples of variable-rate transactions requiring special early disclosures include renewable balloon-payment loans (if the creditor is unconditionally obligated to renew and may increase the rate at renewal), preferred-rate loans, and "price-level-adjusted" mortgages. Graduated-payment and step-rate loans without a variable-rate feature are not variable-rate transactions. [Commentary 12 CFR 1026.19(b)-5]			
2. Do variable rate program disclosures provide a. the booklet titled "Consumer Handbook on ARMs" or a suitable substitute? [12 CFR 1026.19(b)(1)] b. a statement that interest rate, payment, or the term can change? [12 CFR 1026.19(b)(2)(i)] c. the index/formula with source of information disclosed? [12 CFR 1026.19(b)(2)(ii)]			

Worksheet 4: Closed-End Credit (ARM) Forms Review			
Product type:			
	Yes	**No**	**NA**
d. an explanation of the interest rate/payment determination and margin? [12 CFR 1026.19(b)(2)(iii)] e. a statement that consumers should ask for the current margin and interest rate? [12 CFR 1026.19(b)(2)(iv)] f. the fact that interest rate is discounted, if applicable, and a statement that the consumer should ask about the amount of discount? [12 CFR 1026.19(b)(2)(v)] g. the frequency of interest rate and payment changes? [12 CFR 1026.19(b)(2)(vi)] h. the rules relating to changes in the index, outstanding balance, and limits on increases or decreases of the interest rate and payment amount? [12 CFR 1026.19(b)(2)(vii)] **Note:** A creditor must disclose, where applicable, the possibility of negative amortization. [Commentary 12 CFR 1026.19(b)(2)(vii)-2] i. a historical example or the maximum interest rate and payment? [12 CFR 1026.19(b)(2)(viii)] j. an explanation of how the loan payment can be calculated based on the (above) example? [12 CFR 1026.19(b)(2)(ix)] k. the fact that the loan program contains a demand feature? [12 CFR 1026.19(b)(2)(x)] l. information on, and timing of, adjustment notices? [12 CFR 1026.19(b)(2)(xi)] m. a statement that disclosures for other variable rate loan programs are available? [12 CFR 1026.19(b)(2)(xii)]			
Disclosures Before Consummation			
3. Is there a disclosure that the note contains a variable rate feature before consummation? [12 CFR 1026.18(f)(2)(i)]			
4. If the special early disclosures are provided as required under 12 CFR 1026.19(b)(2), is there a statement that variable rate disclosures were provided earlier? [12 CFR 1026.17(b), 1026.18(f)(2)(ii)] **Note:** Closed-end disclosures may be provided to the consumer in electronic form, subject to compliance with consumer consent and other applicable provisions of the E-Sign Act. [12 CFR 1026.17(a)(1)]			
Disclosures After Consummation: **Initial Rate Adjustment Disclosures** [12 CFR 1026.20(d)] **and** **Disclosures for Rate Adjustments With Corresponding Changes in Payment** [12 CFR 1026.20(c)]			
5. Does the creditor, assignee, or servicer provide the initial rate adjustment disclosures at least 210, but no more than 240, days before the first payment at the adjusted level is due or if the first payment at the adjusted level is due within the first 210 days after consummation, are the disclosures provided at consummation? [12 CFR 1026.20(d)]			
6. Do the initial rate adjustment disclosures include the following: a. The date of the disclosure? [12 CFR 1026.20(d)(2)(i)] b. An explanation that, by the loan terms, the current rate is scheduled to expire, the new rate's effective date and any resulting payment change, when future rate adjustments are scheduled to occur, and any other changes to loan terms, features, or options? [12 CFR 1026.20(d)(2)(ii)] c. A table explaining the current interest rate and payment, the new interest rate and payment, and the date the first new payment is due? [12 CFR 1026.20(d)(2)(iii)]			

Worksheet 4: Closed-End Credit (ARM) Forms Review			
Product type:			
	Yes	**No**	**NA**
Note: For interest-only and negative amortization ARMs, the table must include how the current and new rates and payment will be allocated to interest, principal, and escrow (if applicable). [12 CFR 1026.20(d)(2)(iii)(C)] d. An explanation of how the interest rate is determined, including the specific index or formula and a source of information about that index or formula; and the type and amount of any adjustment, including a margin and an explanation that a margin is the addition of a certain number of percentage points to the index? [12 CFR 1026.20(d)(2)(iv)] e. Any limit on rate or payment increases for each of the loan's rate adjustments, including the extent limits result in the creditor, assignee, or servicer forgoing any increase in the rate and the earliest date that such forgone interest rate increases may apply to future interest rate adjustments, subject to those limits? [12 CFR 1026.20(d)(2)(v)] f. An explanation of how the new payment was determined, including the index or formula used to determine the new interest rate? [12 CFR 1026.20(d)(2)(vi)(A)] g. Any adjustments to the index or formula used to determine the new payment, such as the addition of a margin? [12 CFR 1026.20(d)(2)(vi)(B)] h. The expected loan balance on the date of the interest rate adjustment? [12 CFR 1026.20(d)(2)(vi)(C)] i. The remaining loan term expected on the date of the interest rate adjustment and any resulting changes to the term that may have occurred? [12 CFR 1026.20(d)(2)(vi)(D)] j. If an estimated rate payment is provided, a statement that the creditor is using an estimated rate and that subsequent disclosure with the actual interest rate will be provided between two and four months before the first adjusted payment is due? [12 CFR 1026.20(d)(2)(vi)(E)] k. If applicable, a statement that the new payment will not be allocated to pay loan principal and will not reduce the balance? If the new payment will result in negative amortization, a statement that the new payment will not be allocated to principal and that only part of the interest will be paid, which will add to the loan balance? If the new payment will result in negative amortization because of the rate adjustment, a statement of the payment required to fully amortize the remaining balance over the remainder of the term? [12 CFR 1026.20(d)(2)(vii)] l. The circumstances under which a prepayment penalty may be imposed, the time period during which it may be imposed, and a statement that the consumer may contact the servicer for additional information? [12 CFR 1026.20(d)(2)(viii)] m. A telephone number of the creditor, assignee, or servicer if the consumer is unable to make the new payment and alternatives to paying at the new rate? [12 CFR 1026.20(d)(2)(ix), (x)] n. A Web address to the CFPB's or HUD's approved list of homeownership counselors and counseling organizations, the HUD toll-free number to access the HUD list of homeownership counselors and counseling organizations, CFPB Web site to access state housing finance authorities' contact information? [12 CFR 1026.20(d)(2)(xi)]			
7. Are the initial rate adjustment disclosures required above provided in the form of a table that is substantially similar to forms H-4(D)(3) and (4) in appendix H to 12 CFR 1026 and provided as a separate document from all other written materials? [12 CFR 1026.20(d)(3), 1026.17(a)(1)]			
8. If the adjustment of interest rates under the loan contract results in a corresponding adjustment to the payment (including an ARM conversion to fixed-rate if payments			

Worksheet 4: Closed-End Credit (ARM) Forms Review			
Product type:			
	Yes	**No**	**NA**
change), does the creditor, assignee, or servicer provide the following disclosures, unless otherwise exempt: [12 CFR 1026.20(c)] a. An explanation that, by the loan terms, the current rate is scheduled to expire, the new rate's effective date and the resulting payment change, when future rate adjustments are scheduled to occur, and any other changes to loan terms, features or options? [12 CFR 1026.20(c)(2)(i)] b. A table explaining the current and new interest rates and payments, and the date the first new payment is due? [12 CFR 1026.20(c)(2)(ii)] **Note:** For interest-only and negative amortization ARMs, the table must include how the current and new rates and payment will be allocated to interest, principal, and escrow (if applicable). [12 CFR 1026.20(c)(2)(ii)(C)] c. An explanation of how the interest rate is determined, including the specific index or formula and a source of information about that index, and the type and amount of any adjustment, including a margin and an explanation that a margin is the addition of a certain number of percentage points to the index and application of previously forgone rate increases? [12 CFR 1026.20(c)(2)(iii)] d. Any limit on rate or payment increases for each of the loan's rate adjustments, including the extent limits result in the creditor, assignee, or servicer forgoing any increase in the rate and the earliest date that such forgone interest rate increases may apply to future interest rate adjustments, subject to those limits? [12 CFR 1026.20(c)(2)(iv)] e. An explanation of how the new payment was determined, including the index or formula used to determine the new interest rate? [12 CFR 1026.20(c)(2)(v)(A)] f. Any adjustments to the index or formula, such as the addition of a margin? [12 CFR 1026.20(c)(2)(v)(B)] g. The expected loan balance on the date of the interest rate adjustment? [12 CFR 1026.20(c)(2)(v)(C)] h. The remaining loan term expected on the date of the interest rate adjustment and change to the term of the loan? [12 CFR 1026.20(c)(2)(v)(D)] i. If applicable, a statement that the new payment will not be allocated to pay loan principal and will not reduce the balance? If the new payment will result in negative amortization, a statement that the new payment will not be allocated to pay principal and will pay only part of the interest, thereby adding to the loan balance? If the new payment will result in negative amortization because of the rate adjustment, a statement of the payment required to fully amortize the remaining balance at the new rate over the remainder of the term? [12 CFR 1026.20(c)(2)(vi)] j. The circumstances under which a prepayment penalty may be imposed, the time period during which it may be imposed, and a statement that the consumer may contact the servicer for additional information? [12 CFR 1026.20(c)(2)(vii)] **Note:** A creditor, assignee, or servicer is not required to comply with this disclosure requirement if (1) it received the consumer's notification to cease communication pursuant to section 805(c) of the Fair Debt Collection Practices Act, or (2) for the first interest rate adjustment to an ARM, the first adjusted payment is due within 210 days after consummation and the new interest rate disclosed at consummation was not an estimate. [12 CFR 1026.20(c)(1)(ii)]			

Worksheet 4: Closed-End Credit (ARM) Forms Review			
Product type:			
	Yes	**No**	**NA**
9. Are the rate adjustment disclosures required under 12 CFR 1026.20(c) provided in the form of a table that is substantially similar to forms H-4(D)(1) and (2) in appendix H to 12 CFR 1026 and provided in accordance with the following timing requirements? [12 CFR 1026.20(c)(2), (3)] a. If the payment changes with a rate change, the disclosures must be provided to consumers between 60 and 120 days before the first payment at the new rate is due. b. If the payment change is caused by a rate change that is uniformly scheduled every 60 days (or more frequently), disclosures must be provided to consumers between 25 and 120 days before the first payment at the new rate. c. If the ARM was originated before January 10, 2015, where the interest rate and payment are calculated based on an index that is available less than 45 days before the change, disclosures must be provided between 25 and 120 days before the first payment at the new rate is due. d. If the payment adjustment occurs within 60 days of consummation and the new interest rate after adjustment provided at consummation was an estimate, disclosures are required as soon as practicable, but no later than 25 days before the first payment at the new rate is due.			
10. Has the creditor retained evidence of compliance with Regulation Z for two years after the date disclosures were required to be made or action was required to be taken? [12 CFR 1026.25(a)]			

Worksheet 5:
Closed-End Credit File Review

Use this worksheet when reviewing closed-end credit loans. The worksheet contains all the standard closed-end credit disclosure requirements and should be used with other closed-end worksheets. **Determine the accuracy of the disclosures by comparing them with the contract and other bank documents**. To complete, review loan files and place a check in each applicable cell.

Use this worksheet to review audit work papers, evaluate bank policies, and perform expanded procedures and training, as appropriate. Only complete worksheet sections that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the work papers.

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. When performing expanded procedures, a "no" answer indicates a violation and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 5: Closed-End Credit File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
1. Except for private education loans and mail or telephone orders, are disclosures furnished before consummation? [12 CFR 1026.17(b)] **Note:** There are special timing requirements for certain residential mortgage transactions and variable rate mortgage transactions. [12 CFR 1026.19(a), 1026.19(b), 1026.20(c), and 1026.20(d)] In addition, closed-end disclosures may be provided to the consumer in electronic form, subject to compliance with consumer consent and other applicable provisions of the E-Sign Act. [12 CFR 1026.17(a)(1) and 1026.39(b)(1)]			
2. Is the amount financed disclosed and accurate? [12 CFR 1026.18(b)]			
3. Is there a separate itemization of the amount financed (RESPA-GFE, if applicable, may be substituted)? [12 CFR 1026.18(c)]			
4. Is the finance charge disclosed and accurate? [12 CFR 1026.4, 1026.18(c), and 1026.18(d)]			
5. Is the APR disclosed and accurate? [12 CFR 1026.18(e) and 1026.22(a)]			
6. Are the following required disclosures on variable rate loans (other than those secured by the consumer's principal dwelling with a term of more than one year) provided: a. Circumstances that permit rate increase? [12 CFR 1026.18(f)(1)(i)] b. Limits on the increase:			

Worksheet 5: Closed-End Credit File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
i. Periodic? [12 CFR 1026.18(f)(1)(ii)] ii. Lifetime? [12 CFR 1026.18(f)(1)(ii)] c. Effects of increase? [12 CFR 1026.18(f)(1)(iii)] d. Hypothetical example of new payment terms? [12 CFR 1026.18(f)(1)(iv)]			
7. Are the following required disclosures provided if the APR may increase after consummation on variable rate loan transaction secured by the consumer's principal dwelling with a term greater than one year: a. The fact that the transaction contains a variable-rate feature? b. A statement that variable-rate disclosures have been provided earlier? [12 CFR 1026.18(f)(2)]			
8. Has the appropriate payment schedule or payment summary been provided, and is it accurate? [12 CFR 1026.18(g) and 1026.18(s)]			
9. Unless the loan is a single payment loan, is the total of payments provided and accurate? [12 CFR 1026.18(h)]			
10. If the obligation has a demand feature, is that fact disclosed, and, if the disclosures are based on an assumption of one year as provided in 12 CFR 1026.17(c)(5), is that fact disclosed? [12 CFR 1026.18(i)]			
11. If a credit sale, is the total sale price accurate? [12 CFR 1026.18(j)]			
12. Is the prepayment penalty disclosed, if applicable? [12 CFR 1026.18(k)]			
13. Is the late payment charge (dollar amount or percent) disclosed, if applicable? [12 CFR 1026.18(l)]			
14. Is the security interest described accurately, if applicable? [12 CFR 1026.18(m)]			
15. If fees listed at 12 CFR 1026.4(e) are excluded from the finance charge, are these fees listed? [12 CFR 1026.18(o)]			
16. Is there a statement included that the consumer should refer to the appropriate contract document for information about nonpayment, default, the right to accelerate the maturity of the obligation, and prepayment rebates and penalties? [12 CFR 1026.18(p)]			
17. For a residential mortgage transaction, is there a statement whether or not a subsequent purchaser of the dwelling from the consumer may be permitted to assume the remaining obligation on its original terms? [12 CFR 1026.18(q)]			
18. Is the credit life insurance premium or debt cancellation fee for the initial term accurately disclosed, if applicable? [12 CFR 1026.18(n) and 1026.4(d)]			
19. Is the cost of property insurance for the initial term accurately disclosed if from or through the creditor? [12 CFR 1026.18(n) and 1026.4(d)]			
20. Are deposits required for credit transactions disclosed accurately? [12 CFR 1026.18(r)]			
21. Are residential mortgage transaction closing fees that are excluded from the disclosed finance charge bona fide and reasonable? [12 CFR 1026.4(c)(7)]			
22. For any consumer credit contract secured by a dwelling, is the maximum interest rate in the contract (variable rate mortgage) disclosed? [12 CFR 1026.30(a)]			
23. For mortgage transactions subject to RESPA secured by the consumer's dwelling (other than a HELOC or time-share plan), does the creditor provide a GFE of the			

Worksheet 5: Closed-End Credit File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
disclosures required by 12 CFR 1026.18 within three business days after receiving the consumer's written application? [12 CFR 1026.19(a)(1)(i)]			
24. In addition to the disclosures required by 12 CFR 1026.18, did the creditor provide the notice indicating the consumer is not required to complete the agreement merely because the consumer has received disclosures or signed a loan application? [12 CFR 1026.19(a)(4)]			
25. Did the creditor refrain from imposing a fee on a consumer in connection with the mortgage application before the consumer has received the relevant disclosures required in 12 CFR 1026.18, except for a bona fide and reasonable fee for obtaining the consumer's credit history? [12 CFR 1026.19(a)(1)]			
26. Is the GFE in step 23 delivered or placed in the mail not later than the seventh business day before consummation of the transaction, unless the consumer modifies or waives the applicable waiting period due to a bona fide personal financial emergency? [12 CFR 1026.19(a)(2)]			
27. Did the creditor provide corrected disclosures of all changed terms, including the APR, if the APR stated in the GFE is not considered accurate under section 12 CFR 1026.22 when compared with the APR at consummation? [12 CFR 1026.19(a)(2)(ii)] If yes, did the consumer receive the corrected disclosures no later than the third business day before consummation unless he or she modified or waived the applicable waiting period due to a bona fide personal financial emergency? [12 CFR 1026.19(a)(3)]			
28. Unless subject to the exceptions at 12 CFR 1026.39(c), for consumer credit transactions secured by the consumer's principal dwelling that were acquired by, or otherwise sold, transferred, or assigned to the creditor who is the new legal owner of the debt (covered person), did the covered person provide a written disclosure notice to the borrower within 30 calendar days of the transaction that includes the following: a. An identification of the loan that was sold, assigned, or otherwise transferred? [12 CFR 1026.39(d)] b. Name, address, and telephone number of the covered person? [12 CFR 1026.39(d)(1)] c. If there are multiple covered persons, has contact information been provided for each of them, unless one of them has been authorized to receive the consumer's notice of the right to rescind and resolve issues concerning the consumer's payments on the loan? [12 CFR 1026.39(d)(1)(ii)] d. Date of transfer, which may, at the covered person's option, be either the date of acquisition recognized in the books and records of the acquiring party, or the date of transfer recognized in the books and records of the transferring party? [12 CFR 1026.39(d)(2)] e. Name, address, and telephone number of an agent or party authorized to receive notice of the right to rescind and resolve issues concerning the consumer's payments on the loan, unless the consumer can use the information provided under (b) for this purpose? [12 CFR 1026.39(d)(3)] f. The location where the transfer of ownership of the debt to the covered person is or may be recorded? **Note:** If the transfer of ownership has not been recorded in public records at the time the disclosure is provided, the covered person complies with this paragraph by stating this fact. [12 CFR 1026.39(d)(4)]			

Worksheet 5: Closed-End Credit File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
g. At the option of the covered person, any other information regarding the transaction? [12 CFR 1026.39(e)] **Note:** The notice is required even if the servicer did not change. In addition, if more than one consumer is liable on the obligation, the covered person may mail or deliver the disclosure notice to any consumer who is primarily liable. [12 CFR 1026.39(b)(3)]			
29. Is the disclosure notice required by 12 CFR 1026.39 provided clearly and conspicuously in writing, in a form that the consumer may keep? [12 CFR 1026.39(b)(1)] **Note**: This disclosure notice may be combined with the RESPA servicing transfer notice [Commentary 12 CFR 1026.39(b)(1)-1]; and the disclosure notice may be provided to the consumer in electronic form, subject to compliance with consumer consent and other applicable provisions of the E-Sign Act. [12 CFR 1026.39(b)(1)]			
30. If a consumer credit transaction secured by the principal dwelling of a consumer is acquired by a covered person and subsequently sold, assigned, or otherwise transferred to another covered person and a single disclosure notice is provided on behalf of both covered persons, did the disclosure notice satisfy the timing (12 CFR 1026.39(b)) and content (12 CFR 1026.39(d)) requirements applicable to each covered person? [12 CFR 1026.39(b)(4)]			
31. If an acquisition involves multiple covered persons who jointly acquire the consumer credit transaction secured by the principal dwelling of a consumer, was a single disclosure notice provided on behalf of all covered persons? [12 CFR 1026.39(b)(5)] **Note:** If an acquisition involves multiple covered persons who each acquire a partial interest in the loan pursuant to separate and unrelated agreements, each covered person has a duty to ensure that disclosures related to its acquisition are accurate and provided in a timely manner unless an exception in 12 CFR 1026.39(c) applies. The parties may, but are not required to, provide a single notice that satisfies the timing and content requirements applicable to each covered person. [Commentary 12 CFR 1026.39(b)(5)-2]			
32. For private education loans, are the application or solicitation disclosures (12 CFR 1026.47(a)) provided clearly and conspicuously on or with any application or solicitation? [12 CFR 1026.46(d)] **Note:** The disclosures required by 12 CFR 1026.47(a) may be provided to the consumer in electronic form on or with an application or solicitation that is accessed by a consumer in electronic form without regard to the consumer consent or other provisions of the E-Sign Act. [12 CFR 1026.46(c)(3)]			
33. Do the application and solicitation disclosures for private education loans disclose the following: a. Accurate interest rate, including i. rate or range, and if the rate depends in part on a determination of the borrower's creditworthiness or other factors, a statement to that effect? ii. whether rate is fixed or variable? iii. if rate may increase after consummation, any limitations, or lack thereof, and if the limitation is imposed by law, that fact. Also, does the creditor state that the consumer's actual rate may be higher or lower than that disclosed, if applicable? iv. whether the rate will typically be higher if the loan is not co-signed or guaranteed? [12 CFR 1026.47(a)(1)]			

Worksheet 5: Closed-End Credit File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
b. An itemization of the fees and default or late payment costs? [12 CFR 1026.47(a)(2)] c. Repayment terms, including i. term of the loan, which is the period during which regularly scheduled payments of principal and interest will be due? ii. deferral options, or if consumer does not have the option to defer, that fact? iii. for each available deferral option applicable, information as to • whether interest will accrue during deferral period? • if interest accrues, whether payment of interest may be deferred and added to the principal balance? • a statement that, if the consumer files bankruptcy, the consumer may still be required to repay the loan? [12 CFR 1026.47(a)(3)] d. Cost estimates, based on an example of the total cost of the loan, calculated i. using the highest disclosed interest rate and including all applicable finance charges? ii. using an amount financed of $10,000, or $5,000, if the creditor offers loans less than $10,000? iii. for each payment option? [12 CFR 1026.47(a)(4)] e. Eligibility (e.g., any age or school enrollment eligibility requirements) for the consumer or cosigner? [12 CFR 1026.47(a)(5)] f. Alternatives to private education loans, including i. a statement that the consumer may qualify for federal student loans? ii. the interest rates available for each program available under title IV of the Higher Education Act of 1965, and whether the rate is variable or fixed? iii. a statement that the consumer may obtain additional information regarding student federal financial assistance from the school or U.S. Department of Education, including an appropriate Web site? iv. a statement that a covered educational institution may have school specific educational loan benefits and terms not detailed in the loan disclosure forms? [12 CFR 1026.47(a)(6)] g. A statement that if the loan is approved, that the loan will be available for 30 days and the terms will not change, except for changes to the interest rate in the case of a variable rate and other changes permitted by law? [12 CFR 1026.47(a)(7)] h. A statement that before consummation, the borrower must complete a self-certification form obtained from the student's institution of higher education? [12 CFR 1026.47(a)(8)]			
34. For private education loans, are the approval disclosures provided before consummation on or with any notice of approval provided to the consumer? [12 CFR 1026.46(d)(2)]			

Worksheet 5: Closed-End Credit File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
35. Do the approval disclosures for private education loans disclose the information required under 12 CFR 1026.18 and the following: a. Interest rate information, including i. interest rate applicable to the loan? ii. whether the interest rate is variable or fixed? iii. if the interest rate may increase after consummation, any limitations on the rate adjustments, or lack thereof? [12 CFR 1026.47(b)(1)] b. Fees and default or late payment costs, including i. an itemization of the fees or range of fees required to obtain the loan? ii. any fees, changes to the interest rate, and adjustments to principal based on the consumer's defaults or late payments? [12 CFR 1026.47(b)(2)] c. Repayment terms, including i. principal amount? ii. term of the loan? iii. a description of the payment deferral option chosen by the consumer, if applicable, and any other payment deferral options that the consumer may elect at a later time? iv. any payments required while the student is enrolled at the educational institution, based on the deferral option chosen by the consumer? v. amount of any unpaid interest that will accrue while the student is enrolled in school, based on the deferral option chosen by the consumer? vi. a statement that if the consumer files for bankruptcy, the consumer may still be required to pay back the loan? vii. an estimate of the total amount of payments calculated based on • the interest rate applicable to the loan (compliance with section 12 CFR 1026.18(h) constitutes compliance with this requirement)? • the maximum possible rate of interest for the loan, or, if a maximum rate cannot be determined, a rate of 25 percent? • if a maximum rate cannot be determined, does the estimate of the total amount for repayment include a statement that there is no maximum rate and that the total amount for repayment disclosed is an estimate? viii. the maximum monthly payment based on the maximum rate of interest for the loan, or, if a maximum rate of interest cannot be determined, a rate of 25 percent? If a maximum cannot be determined, is there a statement that there is no maximum rate and that the monthly payment amount disclosed is an estimate and will be higher if the applicable interest rate increases? [12 CFR 1026.47(b)(3)] d. Alternatives to private education loans, including i. a statement that the consumer may qualify for federal student loans? ii. the interest rates available for each program available under title IV of the Higher Education Act of 1965, and whether the rate is variable or fixed?			

Worksheet 5: Closed-End Credit File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
iii. a statement that the consumer may obtain additional information regarding student federal financial assistance from the school or the U.S. Department of Education, including an appropriate Web site? [12 CFR 1026.47(b)(4)] e. A statement that the consumer may accept the terms of the loan until the acceptance period under 12 CFR 1026.48(c)(1) has expired. Does the statement include i. the specific date on which the acceptance period expires, based on the date on which the consumer receives the disclosures required under this subsection for the loan? ii. the method or methods by which the consumer may communicate the acceptance (written, oral, or by electronic means?) iii. a statement that except for changes to the interest rate and other changes permitted by law, the rates and the terms of the loan may not be changed by the creditor during the 30-day acceptance period? [12 CFR 1026.47(b)(5)] **Note:** The disclosures required by 12 CFR 1026.47(b) may be provided to the consumer in electronic form, subject to compliance with consumer consent and other applicable provisions of the E-Sign Act. [12 CFR 1026.46(c)(3)]			
36. For private education loans, are the final approval disclosures provided after the consumer accepts the loan and at least three business days before disbursing the private education loan funds? [12 CFR 1026.46(d)(3)]			
37. In addition to the disclosures required under 12 CFR 1026.18, do the final disclosures for private education loans disclose the following: a. Interest rate, including i. interest rate applicable to the loan? ii. whether the interest rate is variable or fixed? iii. if the interest rate may increase after consummation, any limitations on the rate adjustments, or lack thereof? [12 CFR 1026.47(c)(1)] b. Fees and default or late payment costs, including i. an itemization of the fees or range of fees required to obtain the loan? ii. any fees, changes to the interest rate, and adjustments to principal based on the consumer's defaults or late payments? [12 CFR 1026.47(c)(2)] c. Repayment terms, including i. principal amount? ii. term of the loan? iii. a description of the payment deferral option chosen by the consumer, if applicable, and any other payment deferral options that the consumer may elect at a later time? iv. any payments required while the student is enrolled at the educational institution, based on the deferral option chosen by the consumer? v. amount of any unpaid interest that will accrue while the student is enrolled in school, based on the deferral option chosen by the consumer?			

Worksheet 5: Closed-End Credit File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
vi. a statement that if the consumer files for bankruptcy, the consumer may still be required to pay back the loan? vii. an estimate of the total amount of payments calculated based on • the interest rate applicable to the loan (compliance with section 12 CFR 1026.18(h) constitutes compliance with this requirement)? • the maximum possible rate of interest for the loan, or, if a maximum rate cannot be determined, a rate of 25 percent? • if a maximum rate cannot be determined, the estimate of the total amount for repayment must include a statement that there is no maximum rate and that the total amount for repayment disclosed is an estimate? viii. The maximum monthly payment based on the maximum rate of interest for the loan, or, if a maximum rate of interest cannot be determined, a rate of 25 percent. If a maximum cannot be determined, is there a statement that there is no maximum rate and that the monthly payment amount disclosed is an estimate and will be higher if the applicable interest rate increases? [12 CFR 1026.47(c)(3)] d. In a text more conspicuous than any other required disclosure, except for the finance charge, the interest rate, and the creditor's identity, the following disclosures: i. A statement that the consumer has the right to cancel the loan, without penalty, at any time before the midnight of the third business day following the date on which the consumer receives the final loan disclosures. Does the statement include the specific date on which the cancellation period expires and that the consumer may cancel by that date? ii. A statement that the loan proceeds will not be disbursed until the cancellation period expires? iii. The method or methods by which the consumer may cancel? iv. If the creditor permits cancellation by mail, the statement specifying that the consumer's mailed request will be deemed timely if placed in the mail not later than the cancellation date specified on the disclosures? [12 CFR 1026.47(c)(4)] **Note:** The disclosures required by 12 CFR 1026.47(c) may be provided to the consumer in electronic form, subject to compliance with consumer consent and other applicable provisions of the E-Sign Act. [12 CFR 1026.46(c)(3)]			
38. Has the creditor retained evidence of compliance with Regulation Z for two years after the date disclosures were required to be made or action was required to be taken? [12 CFR 1026.25(a)]			

Worksheet 6: Closed-End Credit—ARM File Review

Use this worksheet when reviewing variable rate loans or ARMs with maturity greater than one year secured by the principal dwelling of the borrower. To complete, review applicable loan files and place a check in each applicable cell. **Determine the accuracy of the disclosures by comparing them with the contract and other bank documents**. Use this worksheet to review audit work papers, evaluate bank policies, and perform expanded procedures and training, as appropriate. Only complete worksheet sections that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the work papers.

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. When performing expanded procedures, a "no" answer indicates a violation and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 6: Closed-End Credit—ARM File Review			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
1. Did the bank provide timely early disclosures for residential mortgage transactions subject to RESPA? [12 CFR 1026.19(a)(1)] **Note:** Closed-end disclosures may be provided to the consumer in electronic form, subject to compliance with consumer consent and other applicable provisions of the E-Sign Act. [12 CFR 1026.17(a)(1) and 1026.39(b)(1)]			
2. Unless subject to the exception at 12 CFR 1026.19(d), was the booklet titled "Consumer Handbook on ARMs" or a substitute provided for an ARM transaction secured by the principal dwelling and for a term greater than one year? [12 CFR 1026.19(b)(1)] **Note:** The disclosures required by 12 CFR 1026.19(b) may be provided to the consumer in electronic form without regard to the consumer consent or other provisions of the E-Sign Act in the circumstances set forth in those sections. [12 CFR 1026.17(a)(1) and 1026.19(c)]			
3. If interest rate changes are tied to a particular index, did the contract disclose this fact and include the source of information about the index, or in the alternative, disclose that interest rate changes are at the creditor's discretion or describe any internally defined index? [12 CFR 1026.19(b)(2)(ii), Commentary 12 CFR 1026.19(b)(2)(ii)-1 and -2]			
4. For mortgage transactions subject to RESPA secured by the consumer's dwelling, does the creditor provide a GFE of the disclosures required by 12 CFR 1026.18 within three business days after receiving the consumer's written application? [12 CFR 1026.19(a)(1)]			
5. In addition to the disclosures required by 12 CFR 1026.18, did the creditor provide the notice indicating the consumer is not required to complete the agreement merely because the consumer has received disclosures or signed a loan application? [12 CFR 1026.19(a)(4)]			

Worksheet 6: Closed-End Credit—ARM File Review			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
6. Did the creditor refrain from imposing a fee on a consumer in connection with the mortgage application before the consumer has received the relevant disclosures required in step 4, except for a bona fide and reasonable fee for obtaining the consumer's credit history, unless the consumer modifies or waives the applicable waiting period due to a bona fide personal financial emergency? [12 CFR 1026.19(a)(1)]			
7. Is the GFE in step 4 delivered or placed in the mail no later than the seventh business day before consummation of the transaction? [12 CFR 1026.19(a)(2)]			
8. Did the creditor provide corrected disclosures of all changed terms, including the APR, that the consumer received no later than the third business day before consummation, if the APR stated in the GFE is not considered accurate under 12 CFR 1026.22 when compared with the APR at consummation? [12 CFR 1026.19(a)(2)(ii)]			
9. Unless subject to the exceptions at 12 CFR 1026.39(c), for consumer credit transactions secured by the consumer's principal dwelling that were acquired by, or otherwise sold, transferred, or assigned to, the creditor who is the new legal owner of the debt (covered person), did the covered person provide a written disclosure notice to the borrower within 30 calendar days of the transaction that includes the following: a. An identification of the loan that was sold, assigned, or otherwise transferred? [12 CFR 1026.39(d)] b. Name, address, and telephone number of the covered person? [12 CFR 1026.39(d)(1)] c. Contact information for each person, if there are multiple covered persons, unless one of them has been authorized to receive the consumer's notice of the right to rescind and resolve issues concerning the consumer's payments on the loan? [12 CFR 1026.39(d)(1)(i), (ii)] d. Date of transfer, which may, at the covered person's option, be either the date of acquisition recognized in the books and records of the acquiring party or the date of transfer recognized in the books and records of the transferring party? [12 CFR 1026.39(d)(2)] e. Name, address, and telephone number of an agent or party authorized to receive notice of the right to rescind and resolve issues concerning the consumer's payments on the loan, unless the consumer can use the information provided under (b) for this purpose? [12 CFR 1026.39(d)(3)] f. The location where the transfer of ownership of the debt to the covered person is or may be recorded? (**Note:** If the transfer of ownership has not been recorded in public records at the time the disclosure is provided, the covered person complies with this paragraph by stating this fact.) [12 CFR 1026.39(d)(4)] g. At the option of the covered person, any other information regarding the transaction? [12 CFR 1026.39(e)] **Note:** If more than one consumer is liable on the obligation, the covered person may mail or deliver the disclosure notice to any consumer who is primarily liable. [12 CFR 1026.39(b)(3)]			
10. Is the disclosure notice required by 12 CFR 1026.39 provided clearly and conspicuously in writing, in a form that the consumer may keep? [12 CFR 1026.39(b)(1)] **Note:** This disclosure notice may be combined with the RESPA servicing transfer notice [Commentary 12 CFR 1026.39(b)(1)-1]; and the disclosure notice may be			

Worksheet 6: Closed-End Credit—ARM File Review			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
provided to the consumer in electronic form, subject to compliance with consumer consent and other applicable provisions of the E-Sign Act. [12 CFR 1026.39(b)(1)]			
11. If a consumer credit transaction secured by the principal dwelling of a consumer is acquired by a covered person and subsequently sold, assigned, or otherwise transferred to another covered person and a single disclosure notice is provided on behalf of both covered persons, did the disclosure notice satisfy the timing (12 CFR 1026.39(b)) and content (12 CFR 1026.39(d)) requirements applicable to each covered person? [12 CFR 1026.39(b)(4)]			
12. If an acquisition involves multiple covered persons who jointly acquire the consumer credit transaction secured by the principal dwelling of a consumer, was a single disclosure notice provided on behalf of all covered persons? [12 CFR 1026.39(b)(5)] **Note:** If an acquisition involves multiple covered persons who each acquire a partial interest in the loan pursuant to separate and unrelated agreements, each covered person has a duty to ensure that disclosures related to its acquisition are accurate and provided in a timely manner unless an exception in 12 CFR 1026.39(c) applies. The parties may, but are not required to, provide a single notice that satisfies the timing and content requirements applicable to each covered person. [Commentary 12 CFR 1026.39(b)(5)-2]			
Subsequent Disclosures			
13. Did the creditor, assignee, or servicer provide the initial rate adjustment disclosures at least 210, but no more than 240, days before the first payment at the adjusted level is due or if the first payment at the adjusted level is due within the first 210 days after consummation, are the disclosures provided at consummation? [12 CFR 1026.20(d)]			
14. Did the initial rate adjustment disclosures include the following: a. Date of the disclosure? [12 CFR 1026.20(d)(2)(i)] b. An explanation that, by the loan terms, the current rate is scheduled to expire, the new rate's effective date, and any resulting payment change, when future rate adjustments are scheduled to occur and any other changes to loan terms, features, or options? [12 CFR 1026.20(d)(2)(ii)] c. A table explaining the current interest rate and payment, the new interest rate and payment, and the date the first new payment is due? [12 CFR 1026.20(d)(2)(iii)] **Note:** For interest-only and negative amortization ARMs, the table must include how the current and new rates and payment will be allocated to interest, principal, and escrow (if applicable). [12 CFR 1026.20(d)(2)(iii)(C)] d. An explanation of how the interest rate is determined, including the specific index or formula and a source of information about that index or formula; and the type and amount of any adjustment, including a margin and an explanation that a margin is the addition of a certain number of percentage points to the index? [12 CFR 1026.20(d)(2)(iv)] e. Any limit on rate or payment increases for each of the loan's rate adjustments, including the extent limits result in the creditor, assignee, or servicer forgoing any increase in the rate and the earliest date that such forgone interest rate increases may apply to future interest rate adjustments, subject to those limits? [12 CFR 1026.20(d)(2)(v)] f. An explanation of how the new payment was determined, including the index or formula used to determine the new interest rate? [12 CFR 1026.20(d)(2)(vi)(A)] g. Any adjustments to the index or formula used to determine the new payment, such as the addition of a margin? [12 CFR 1026.20(d)(2)(vi)(B)]			

Worksheet 6: Closed-End Credit—ARM File Review			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
h. The expected loan balance on the date of the interest rate adjustment? [12 CFR 1026.20(d)(2)(vi)(C)] i. The remaining loan term expected on the date of the interest rate adjustment and any resulting changes to the term that may have occurred? [12 CFR 1026.20(d)(2)(vi)(D)] j. If an estimated rate payment is provided, a statement that the creditor is using an estimated rate and that subsequent disclosure with the actual interest rate will be provided between two and four months before the first adjusted payment is due? [12 CFR 1026.20(d)(2)(vi)(E)] k. If applicable, a statement that the new payment will not be allocated to pay loan principal and will not reduce the balance? If the new payment will result in negative amortization, a statement that the new payment will not be allocated to principal and that only part of the interest will be paid, which will add to the loan balance? If the new payment will result in negative amortization because of the rate adjustment, a statement of the payment required to fully amortize the remaining balance over the remainder of the term? [12 CFR 1026.20(d)(2)(vii)] l. The circumstances in which a prepayment penalty may be imposed, the time period during which it may be imposed, and a statement that the consumer may contact the servicer for additional information? [12 CFR 1026.20(d)(2)(viii)] m. A telephone number of the creditor, assignee, or servicer if the consumer is unable to make the new payment and alternatives to paying at the new rate? [12 CFR 1026.20(d)(2)(ix), (x)] n. A Web address to the CFPB's or HUD's approved list of homeownership counselors and counseling organizations, the HUD toll-free number to access the HUD list of homeownership counselors and counseling organizations, and CFPB Web site to access state housing finance authorities' contact information? [12 CFR 1026.20(d)(2)(xi)]			
15. Were the initial rate adjustment disclosures required above provided in the form of a table that is substantially similar to forms H-4(D)(3) and (4) in appendix H to 12 CFR 1026 and provided as a separate document from all other written materials? [12 CFR 1026.20(d)(3), 1026.17(a)(1)]			
16. If the adjustment of interest rates under the loan contract results in a corresponding adjustment to the payment (including an ARM conversion to fixed-rate if payments change), did the creditor, assignee, or servicer provide the following disclosures, unless otherwise exempt: [12 CFR 1026.20(c)] a. An explanation that, by the loan terms, the current rate is scheduled to expire, the new rate's effective date, and the resulting payment change, when future rate adjustments are scheduled to occur and any other changes to loan terms, features, or options? [12 CFR 1026.20(c)(2)(i)] b. A table explaining the current and new interest rates and payments, and the date the first new payment is due? [12 CFR 1026.20(c)(2)(ii)] **Note:** For interest-only and negative amortization ARMs, the table must include how the current and new rates and payment will be allocated to interest, principal, and escrow (if applicable). [12 CFR 1026.20(c)(2)(ii)(C)] c. An explanation of how the interest rate is determined, including the specific index or formula and a source of information about that index; and the type and amount of any adjustment, including a margin and an explanation that a margin is the addition of a certain number of percentage points to the index and application of previously forgone rate increases? [12 CFR 1026.20(c)(2)(iii)]			

Worksheet 6: Closed-End Credit—ARM File Review			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
d. Any limit on rate or payment increases for each of the loan's rate adjustments, including the extent limits result in the creditor, assignee, or servicer forgoing any increase in the rate and the earliest date that such forgone interest rate increases may apply to future interest rate adjustments, subject to those limits? [12 CFR 1026.20(c)(2)(iv)] e. An explanation of how the new payment was determined, including the index or formula used to determine the new interest rate? [12 CFR 1026.20(c)(2)(v)(A)] f. Any adjustments to the index or formula, such as the addition of a margin? [12 CFR 1026.20(c)(2)(v)(B)] g. The expected loan balance on the date of the interest rate adjustment? [12 CFR 1026.20(c)(2)(v)(C)] h. The remaining loan term expected on the date of the interest rate adjustment and change to the term of the loan? [12 CFR 1026.20(c)(2)(v)(D)] i. If applicable, a statement that the new payment will not be allocated to pay loan principal and will not reduce the balance? If the new payment will result in negative amortization, a statement that the new payment will not be allocated to principal and that only part of the interest will be paid, which will add to the loan balance? If the new payment will result in negative amortization because of the rate adjustment, a statement of the payment required to fully amortize the remaining balance over the remainder of the term? [12 CFR 1026.20(c)(2)(vi)] j. The circumstances in which a prepayment penalty may be imposed, the time period during which it may be imposed, and a statement that the consumer may contact the servicer for additional information? [12 CFR 1026.20(c)(2)(vii)] **Note:** A creditor, assignee, or servicer is not required to comply with this disclosure requirement if (1) it received the consumer's notification to cease communication pursuant to section 805(c) of the Fair Debt Collection Practices Act, or (2) for, the first interest rate adjustment to an ARM, the first adjusted payment is due within 210 days after consummation and the new interest rate disclosed at consummation was not an estimate. [12 CFR 1026.20(c)(1)(ii)]			
17. Were the rate adjustment disclosures required under 12 CFR 1026.20(c) provided in the form of a table that is substantially similar to forms H-4(D)(1) and (2) in appendix H to 12 CFR 1026 and provided in accordance with the following timing requirements? [12 CFR 1026.20(c)(2), (3)] a. If the payment changes with a rate change, the disclosures must be provided to consumers between 60 and 120 days before the first payment at the new rate is due? b. If the payment change is caused by a rate change that is uniformly scheduled every 60 days (or more frequently), disclosures must be provided to consumers between 25 and 120 days before the first payment at the new rate? c. If the ARM was originated before January 10, 2015, where the interest rate and payment are calculated based on an index that is available less than 45 days before the change, disclosures must be provided between 25 and 120 days before the first payment at the new rate is due? d. If the payment adjustment occurs within 60 days of consummation and the new interest rate after adjustment provided at consummation was an estimate, disclosures are required as soon as practicable, but no later than 25 days before the first payment at the new rate is due?			

Worksheet 6: Closed-End Credit—ARM File Review			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
18. Has the creditor retained evidence of compliance with Regulation Z for two years after the date disclosures were required to be made or action was required to be taken? [12 CFR 1026.25(a)]			

Worksheet 7:
Right of Rescission File Review

Use this worksheet when reviewing the right to rescission for both closed- and open-end loans subject to Regulation Z that are secured by the consumer's principal dwelling. Requirements for closed- and open-end loans are found in 12 CFR 1026.23 and 12 CFR 1026.15, respectively. (**Note**: Loans not subject to rescission include business purpose credit, refinancings in which no new money is advanced, and residential mortgage transactions.) To complete, review applicable loan files and place a check in each applicable cell. If applicable, test rescission waivers.

Use this worksheet to review audit work papers, evaluate bank policies, and perform expanded procedures and training, as appropriate. Only complete worksheet sections that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the work papers.

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. When performing expanded procedures, a "no" answer indicates a violation and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 7: Right of Rescission File Review			
Product type:			
Name of borrower:			
Loan/account #:			
Type of credit (closed or open):			
	Yes	**No**	**NA**
1. Was the appropriate number of copies furnished to each person entitled to rescind, i.e., one copy to each consumer entitled to rescind if the notice is delivered in electronic form in accordance with the consumer consent and other applicable provisions of the E-Sign Act or two copies otherwise? [12 CFR 1026.23(b)(1) or 1026.15(b)]			
2. Is the rescission notice on a separate document that identifies the transaction? [12 CFR 1026.23(b)(1) or 1026.15(b)]			
3. Does the rescission notice clearly and conspicuously disclose a. the retention or acquisition of a security interest in the consumer's principal dwelling? [12 CFR 1026.23(b)(1)(i) or 1026.15(b)(1)] b. the consumer's right to rescind? [12 CFR 1026.23(b)(1)(ii) or 1026.15(b)(2)] c. how to exercise the right to rescind, with a form for that purpose, designating the address of the bank's place of business? [12 CFR 1026.15(b)(3) or 1026.23(b)(1)(iii)] d. the effects of rescission? [12 CFR 1026.23(b)(1)(iv) or 1026.15(b)(4)] e. the date the rescission period expires? [12 CFR 1026.23(b)(1)(v) or 1026.15(b)(5)]			

Worksheet 7: Right of Rescission File Review			
Product type:			
Name of borrower:			
Loan/account #:			
Type of credit (closed or open):			
	Yes	**No**	**NA**
4. Was funding delayed (except into escrow) until the rescission period expired? [12 CFR 1026.23(c) or 1026.15(c)]			
5. If the consumer elected to modify or waive the right to rescind because of a bona fide personal financial emergency, did the bank have a dated written modification or waiver describing that emergency and was the document signed by all consumers entitled to rescind? [12 CFR 1026.23(e) or 1026.15(e)]			
6. **Internal controls**: Does the consumer sign and date the notice to acknowledge receipt? **Note:** A “no” answer is not a violation of law.			
7. Has the creditor retained evidence of compliance with Regulation Z for two years after the date disclosures were required to be made or action was required to be taken? (12 CFR 1026.25(a)) And, if a transaction in which the application was received on or after January 10, 2014, and that required compliance with the prepayment limitations of 12 CFR 1026.43(g), has the creditor retained evidence of these material disclosures for three years after consummation? [12 CFR 1026.23(a)(3)(ii) and 1026.25(c)(3)]			

Worksheet 8: Open-End Not Home-Secured Credit Forms Review

Use this worksheet when reviewing general and account-opening disclosures for open-end (not home-secured) credit forms, including applicable electronic forms. To complete, review the forms and place a check in each applicable cell. **Determine the accuracy of the disclosures by comparing them with the contract and other bank documents**. Forms that include or involve current transactions, such as change-in-terms notices, periodic billing statements, rescission notices, and billing error communications, are verified for accuracy when the file review worksheets are completed. Use this worksheet to review audit work papers, evaluate bank policies, and perform expanded procedures and training, as appropriate. Only complete worksheet sections that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the work papers.

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. When performing expanded procedures, a "no" answer indicates a violation and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 8: Open-End Not Home-Secured Credit Forms Review			
Product type:			
	Yes	**No**	**NA**
General Disclosures			
1. Did the creditor make the disclosures clearly and conspicuously and, unless subject to an exception listed at 12 CFR 1026.5(a)(1)(ii)(A) or (B), in a form that the consumer may keep? [12 CFR 1026.5(a)(1)] **Note:** Generally, the disclosures required by subpart B may be provided to the consumer in electronic form, subject to compliance with consumer consent and other applicable provisions of the E-Sign Act (12 CFR 1026.5(a)(iii)). Disclosures that need not be provided in writing under 12 CFR 1026.5(a)(1)(ii)(A) may, however, be provided in writing, orally, or in electronic form. If the consumer requests the service in electronic form, such as on the creditor's Web site, the specified disclosures may be provided in electronic form without regard to consumer consent or other provisions of the E-Sign Act. [Commentary 12 CFR 1026.5(a)(1)(ii)(A)-1]			
2. Is the terminology used in providing the disclosures required by the open-end credit provisions of Regulation Z (12 CFR 1026.5) consistent? [12 CFR 1026.5(a)(2)(i)]			
3. If disclosures are required to be presented in a tabular format pursuant to 12 CFR 1026.5(a)(3), is the term penalty APR used as applicable; and does the creditor refrain from using the term "fixed," or a similar term, to describe such rate unless the creditor also specifies a time period that the rate will be fixed and the rate will not increase during that period, or if no such time period is provided, the rate will not increase while the plan is open? [12 CFR 1026.5(a)(2)(iii]			

Worksheet 8: Open-End Not Home-Secured Credit Forms Review			
Account-Opening Disclosures			
Product type:			
	Yes	**No**	**NA**
4. Are the disclosures required in steps 5—9, steps 12–17, and steps 19–26 in the form of a table with headings, content, and format substantially similar to any of the applicable tables in G-17 in appendix G, including proper font and bolded text, where applicable? [12 CFR 1026.6(b)(1)(i)] **Note**: Refer to the model forms for examples. Bold text is not used for (1) the amount of any periodic fee disclosed per 12 CFR 1026.6(b)(2) that is not an annualized amount and (2) other APRs or fee amounts disclosed in the table. [12 CFR 1026.6(b)(1)(i)]			
5. Is each periodic rate that may be used to compute the finance charge on an outstanding balance for purchases, a cash advance, or a balance transfer expressed as an APR, disclosed; when more than one rate applies for a category of transactions, did the creditor disclose the range of balances to which each rate is applicable; and is the APR for purchases disclosed pursuant to this paragraph in at least 16-point type, except for a penalty rate that may apply upon the occurrence of one or more specific events? [12 CFR 1026.6(b)(2)(i)]			
6. If the rate is a variable rate, did the creditor also disclose the fact that the rate may vary and how the rate is determined (i.e., identify the type of index or formula used in setting the rate)? [12 CFR 1026.6(b)(2)(i)(A)]			
7. If the initial rate is an introductory rate, did the creditor disclose the rate that would otherwise apply to the account; where the rate is not tied to an index or formula, did the creditor disclose the rate that applies after the introductory rate expires; and for a variable rate account, did the creditor disclose a rate based on the applicable index or formula in accordance with the accuracy requirements? [12 CFR 1026.6(b)(2)(i)(B)]			
8. If the initial rate is temporary and is higher than the rate that will apply after the temporary rate expires, did the creditor disclose the premium initial rate; and is the premium rate for purchases in at least 16-point type? [12 CFR 1026.6(b)(2)(i)(C)]			
9. Except for introductory rates and employee preferential rates, if the rate is a penalty rate, did the creditor disclose, as part of the APR disclosure, the increased rate that may apply, a brief description of the event or events that may result in the increased rate, and a brief description of how long the increased rate will remain in effect? [12 CFR 1026.6(b)(2)(i)(D)(1)]			
10. If the creditor discloses in the table an introductory rate, as that term is defined in 12 CFR 1026.16(g)(2)(ii), did the creditor briefly disclose directly beneath the table the circumstances under which the introductory rate may be revoked and the rate that will apply after the introductory rate is revoked? [12 CFR 1026.6(b)(2)(i)(D)(2)]			
11. If the creditor discloses in the table a preferential APR for which employees of the creditor, employees of a third party, or other individuals with similar affiliations with the creditor or third party, such as executive officers, directors, or principal shareholders, are eligible, did the creditor briefly disclose directly beneath the table the circumstances under which this preferential rate may be revoked and the rate that will apply after the preferential rate is revoked? [12 CFR 1026.6(b)(2)(i)(D)(3)]			
12. If the creditor imposes an APR that varies by state or based on the consumer's creditworthiness and provides required disclosures in person at the time the open-end plan is established in connection with financing the purchase of goods or services, did the creditor either a. disclose the specific APR applicable to the consumer's account or the range of the APRs? b. refrain from listing APRs for multiple states in the account opening table? [12 CFR 1026.6(b)(2)(i)(E)]			

Worksheet 8: Open-End Not Home-Secured Credit Forms Review			
Product type:			
	Yes	**No**	**NA**
13. Did the creditor disclose a. any introductory rate? b. any rate that would apply upon expiration of a premium initial rate? [12 CFR 1026.6(b)(2)(i)(F)]			
14. Did the creditor disclose any annual or periodic fee that may be imposed for the issuance or availability of an open-end plan (including any fee based on account activity or inactivity), how frequently the fee will be imposed, the annualized amount of the fee, any non-periodic fee for opening a plan, and that the fee is a one-time fee? [12 CFR 1026.6(b)(2)(ii)] **Note:** If the amount of any fee required to be disclosed under 12 CFR 1026.6(b)(2) is determined on the basis of a percentage of another amount, the percentage used and the identification of the amount against which the percentage is applied may be disclosed instead of the amount of the fee. [12 CFR 1026.6(b)(1)(iv)]			
15. Did the creditor disclose any fixed finance charge and a brief description of that charge? [12 CFR 1026.6(b)(2)(iii)]			
16. Did the creditor disclose any transaction charge imposed by the creditor for use of the open-end plan for purchases? [12 CFR 1026.6(b)(2)(iv)]			
17. Did the creditor disclose the grace period and any conditions on the availability of the grace period, or if no grace period is provided did the creditor disclose that fact; if the grace period varies did the creditor disclose the range of days, minimum number of days, or average number of days in the grace period; in disclosing in the tabular format a grace period that applies to all features on the account, did the creditor include the phrase “How to Avoid Paying Interest” as the heading for the row describing the grace period; and if a grace period is not offered on all features of the account, did the creditor include the phrase “Paying Interest” as the heading for the row describing this fact? [12 CFR 1026.6(b)(2)(v)]			
18. Did the creditor disclose the name of the balance computation method that is used to determine the balance on which the finance charge is computed for each feature, or an explanation of the method used if it is not listed, along with a statement that an explanation of the methods required by 12 CFR 1026.6(b)(4)(i)(D) is provided with the account-opening disclosures? And is this information placed directly below the table? [12 CFR 1026.6(b)(2)(vi)]			
19. Did the creditor disclose any fee imposed for an extension of credit in the form of cash or its equivalent? [12 CFR 1026.6(b)(2)(vii)]			
20. Did the creditor disclose any fee imposed for a late payment? [12 CFR 1026.6(b)(2)(viii)]			
21. Did the creditor disclose any fee imposed for exceeding the credit limit? [12 CFR 1026.6(b)(2)(ix)]			
22. Did the creditor disclose any fee imposed to transfer a balance? [12 CFR 1026.6(b)(2)(x)]			
23. Did the creditor disclose any fee imposed for a returned payment? [12 CFR 1026.6(b)(2)(xi)]			
24. Did the creditor disclose fees for required insurance, debt cancellation, or debt suspension coverage and a cross reference to any additional information provided about the insurance or coverage, as applicable? [12 CFR 1026.6(b)(2)(xii)]			
25. Did the creditor disclose, as applicable, the available credit remaining after fees or security deposit is debited to the account? [12 CFR 1026.6(b)(2)(xiii)]			

Worksheet 8: Open-End Not Home-Secured Credit Forms Review			
Product type:			
	Yes	**No**	**NA**
26. For issuers of credit cards that are not charge cards, did the creditor disclose a reference to the CFPB's Web site and a statement that consumers may obtain on the Web site information about shopping for and using credit cards? [12 CFR 1026.6(b)(2)(xiv)]			
27. Did the creditor disclose a statement that information about the consumers' right to dispute transactions is included in the account-opening disclosures, and is this statement placed directly below the table? [12 CFR 1026.6(b)(2)(xv)]			
28. To the extent applicable, did the creditor disclose, for charges imposed, the circumstances under which the charge may be imposed, including the amount of the charge or explanation of how the charge is determined; and did the creditor include a statement of when finance charges begin to accrue, including an explanation of whether or not any time period exists within which any credit extended may be repaid without incurring a finance charge? [12 CFR 1026.6(b)(3)(i)]			
29. Did the creditor disclose, as applicable, for each periodic rate that may be used to calculate interest, a. the rate (expressed as a periodic rate and a corresponding APR)? b. the range of balances to which the rate is applicable? c. the type of transaction to which the periodic rate applies? d. an explanation of the method used to determine the balance to which the rate is applied? [12 CFR 1026.6(b)(4)(i)]			
30. Did the creditor disclose, as applicable, for interest rate changes that are tied to increases in an index or formula specifically set forth in the account agreement, a. the fact that the APR may increase? b. how the rate is determined, including the margin? c. the circumstances under which the rate may increase? d. the frequency with which the rate may increase? e. any limitation on the amount the rate may change? f. the effect(s) of an increase? [12 CFR 1026.6(b)(4)(ii)]			
31. Did the creditor disclose, as applicable, for interest rate changes that are specifically set forth in the account agreement and not tied to increases in an index or formula, a. the initial rate (expressed as a periodic rate and a corresponding APR)? b. how long the initial rate will remain in effect and the specific events that cause the initial rate to change? c. the rate (expressed as a periodic rate and a corresponding APR) that will apply when the initial rate is no longer in effect and any limitation on the time period the new rate will remain in effect? d. the balances to which the new rate will apply? e. the balances to which the current rate at the time of the change will apply? [12 CFR 1026.6(b)(4)(iii)]			
32. Did the creditor provide the applicable disclosures if the creditor offers optional credit insurance, or debt cancellation or debt suspension coverage? [12 CFR 1026.6(b)(5)(i)]			

Worksheet 8: Open-End Not Home-Secured Credit Forms Review			
Product type:			
	Yes	**No**	**NA**
33. Did the creditor disclose the fact it has or will acquire a security interest in the property purchased under the plan, or in other property identified by item or type? [12 CFR 1026.6(b)(5)(ii)]			
34. Did the creditor disclose a statement that outlines the consumer's rights and the creditor's responsibilities, substantially similar to Model Form G-3(A) in appendix G? [12 CFR 1026.6(b)(5)(iii)] **Note:** Disclosures required by 12 CFR 1026.6(b)(3) through (b)(5) that are not otherwise required to be in the table and other information may be presented with the account agreement or account-opening disclosure statement, provided such information appears outside the required table. [12 CFR 1026.6(b)(1)(i)]			
35. If applicable, did the creditor that provided the account-opening disclosures in person at the time the plan was established, in connection with financing the purchase of goods or services, and that imposed fees (see 12 CFR 1026.6(b)(2)(vii) through (b)(2)(xi)) that vary by state in the account-opening table disclose either (a) the specific fee applicable to the consumer's account, or (b) the range of the fees and a statement that the amount of the fee varies by state and refer the consumer to the account agreement or other disclosure provided with the account-opening table, where the amount of the fee applicable to the consumer's account is disclosed? And did the creditor refrain from listing fees for multiple states in the account-opening summary table? [12 CFR 1026.6(b)(1)(iii)]			
36. Are the 12 CFR 1026.6(a) disclosures for an added feature or credit device with different finance charge terms provided before the consumer uses the feature or device? [12 CFR 1026.9(b)(2)]			
37. Has the creditor retained evidence of compliance with Regulation Z for two years after the date disclosures were required to be made or action was required to be taken? [12 CFR 1026.25(a)]			

Worksheet 9: Open-End Home-Secured Credit Forms Review

Use this worksheet when reviewing open-end home-secured forms (including HELOCs and reverse mortgages, if applicable) for general, application, and account-opening disclosures, including electronic disclosures. To complete, review the forms and place a check in each applicable cell. **Determine the accuracy of the disclosures by comparing them with the contract and other bank documents**. Forms that include or involve current transactions, such as change-in-terms notices, periodic billing statements, rescission notices, and billing error communications, are verified for accuracy when the file review worksheets are completed. Use this worksheet to review audit work papers, evaluate bank policies, and perform expanded procedures and training, as appropriate. Only complete worksheets sections that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the work papers.

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. When performing expanded procedures, a "no" answer indicates a violation and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 9: Open-End Home-Secured Credit Forms Review			
Product type:			
	Yes	**No**	**NA**
1. Did the creditor make the disclosures clearly and conspicuously and, unless subject to an exception listed at 12 CFR 1026.5(a)(1)(ii)(A) or (B), in writing, in a form that the consumer may keep? [12 CFR 1026.5(a)(1)] **Note:** Generally, the required disclosures may be provided to the consumer in electronic form, subject to compliance with consumer consent and other applicable provisions of the E-Sign Act. The disclosures required by 12 CFR 1026.60, 1026.40, and 1026.16 may be provided, however, to the consumer in electronic form without regard to the consumer consent or other provisions of the E-Sign Act in the circumstances set forth in those sections. [12 CFR 1026.5(a)(1)(iii)]			
2. Is the terminology used in providing the disclosures required by the open-end provisions of Regulation Z (12 CFR 1026.5) consistent? [12 CFR 1026.5(a)(2)(i)]			
3. For home-equity plans subject to 12 CFR 1026.40, are the terms "finance charge" and "annual percentage rate," when required to be disclosed with a corresponding amount or percentage rate, more conspicuous than any other required disclosure? [12 CFR 1026.5(a)(2)(ii)] **Note**: The terms need not be more conspicuous when used for periodic statement disclosures under 12 CFR 1026.7(a)(4) and for advertisements under 12 CFR 1026.16.			
4. If disclosures are required to be presented in a tabular format pursuant to 12 CFR 1026.5(a)(3), is the term "penalty APR" used, as applicable; and is the term "fixed," or a similar term, not used to describe such rate unless the creditor also specifies a time period that the rate will be fixed and the rate will not increase during that period, or if no such time period is provided, the rate will not increase while the plan is open? If credit insurance or debt cancellation or debt suspension coverage is			

Worksheet 9: Open-End Home-Secured Credit Forms Review			
Product type:			
	Yes	**No**	**NA**
required as part of the plan, is the term "required" used and is the program identified by its name? [12 CFR 1026.5(a)(2)(iii)]			
5. Are disclosures grouped together and segregated from other disclosures and are they clear and conspicuous? [12 CFR 1026.40(a)(1)]			
6. Do the required disclosures of paragraph 12 CFR 1026.40(d)(1) through (4)(ii) precede the other disclosures? [12 CFR 1026.40(a)(2)]			
7. Is a home-equity brochure provided? [12 CFR 1026.40(e)]			
8. Does the disclosure state a. that the consumer should retain a copy of the disclosures? [12 CFR 1026.40(d)(1)] b. when the consumer must submit an application to obtain the specific terms disclosed? [12 CFR 1026.40(d)(2)(i)] c. that terms that are subject to change before the plan opens, if applicable? [12 CFR 1026.40(d)(2)(i)] d. that the consumer may receive a refund of all application fees if disclosed terms change before opening (other than a change due to fluctuations in the index in a variable rate plan)? [12 CFR 1026.40(d)(2)(ii)] e. that the consumer's dwelling secures the HELOC and that the loss of the dwelling may occur in the event of a default? [12 CFR 1026.40(d)(3)] f. the creditor's right to change, freeze, or terminate the account (and require payment of the balance in full) under certain conditions? [12 CFR 1026.40(d)(4)(i)] g. that information about the conditions under which the adverse actions (in 12 CFR 1026.40(d)(4)(i)) may occur is available on request, or, alternatively, such conditions are disclosed? [12 CFR 1026.40(d)(4)(ii)] h. payment terms? [12 CFR 1026.40(d)(5)] i. a recent APR and that the APR does not include costs other than interest for fixed-rate plans? [12 CFR 1026.40(d)(6)] j. an itemization of fees to open, use, or maintain the plan and when such fees are payable? [12 CFR 1026.40(d)(7)] k. a GFE of total fees imposed by third parties to open the account? [12 CFR 1026.40(d)(8)] l. that the consumer may receive a good faith itemization of third-party fees? [12 CFR 1026.40(d)(8)] m. that negative amortization may occur and could increase the principal balance and reduce the consumer's equity? [12 CFR 1026.40(d)(9)] n. transaction requirements under the plan (e.g., limits on number of extensions and minimum draw requirements)? [12 CFR 1026.40(d)(10)] o. that a tax adviser should be consulted? [12 CFR 1026.40(d)(11)]			
Variable Rate HELOC Disclosure Requirements [12 CFR 1026.40(d)(12)(i)-(xii)]			
9. Does the disclosure state, as applicable, a. that the APR, payment, or term may change? [12 CFR 1026.40(d)(12)(i)] b. that the APR excludes costs other than interest? [12 CFR 1026.40(d)(12)(ii)]			

Worksheet 9: Open-End Home-Secured Credit Forms Review			
Product type:			
	Yes	**No**	**NA**
c. the index used to make rate adjustments and its source? [12 CFR 1026.40(d)(12)(iii)] d. how the APR will be determined? [12 CFR 1026.40(d)(12)(iv)] e. that the consumer should request information on the current index value, margin, discount or premium, and APR? [12 CFR 1026.40(d)(12)(v)] f. that the initial APR is discounted and the duration of the discount, if applicable? [12 CFR 1026.40(d)(12)(vi)] g. the frequency of APR changes? [12 CFR 1026.40(d)(12)(vii)] h. the rules relating to changes in the index, APR, and payment amount? [12 CFR 1026.40(d)(12)(viii)] i. the lifetime rate cap and any annual (or more frequent) caps, or a statement that there is no annual limitation and a statement of the maximum APR that may be imposed under each payment option? [12 CFR 1026.40(d)(12)(ix)] j. the minimum payment requirement, using the maximum APR in effect for a $10,000 balance, and the earliest date the maximum APR may be imposed? [12 CFR 1026.40(d)(12)(x)] k. the historical example, based on a $10,000 balance, reflecting all significant plan terms? [12 CFR 1026.40(d)(12)(xi)] l. that rate information will be provided on or with each periodic statement? [12 CFR 1026.40(d)(12)(xii)]			
Limitations on Home Equity Plans			
10. Is the APR based on an independent index for variable rate accounts? [12 CFR 1026.40(f)(1)(i)]			
11. Is the index available to the public? [12 CFR 1026.40(f)(1)(ii)]			
12. Are accounts terminated and repayment of the entire balance due before the end of the original term (other than reverse mortgages) only under the following conditions: a. When there is fraud or material misrepresentation by the consumer in connection with the plan at any time, including during the application process, the draw period, or any repayment period? b. When the consumer fails to meet the plan's repayment terms? c. When the consumer takes action or fails to act in a manner that adversely affects the bank's security for the plan or any right in the security? [12 CFR 1026.40(f)(2)(iii)] **Note**: Regulation O (12 CFR 215.5) requires, and Regulation Z permits, a demand feature in executive officer plans. [12 CFR 1026.40(f)(2)(iv)]			
13. Are the terms of an account only changed under the following circumstances: a. When a specified change occurs when a specific event takes place, as provided for in the initial agreement? b. When the index or margin is changed because the original index is no longer available? c. When the consumer specifically agrees to a specified change in writing at the time of the change? d. When any change unequivocally will benefit the consumer? e. When changes made to the terms are insignificant? [12 CFR 1026.40(f)(3)(i)-(v)]			

Worksheet 9: Open-End Home-Secured Credit Forms Review			
Product type:			
	Yes	**No**	**NA**
14. Is the credit limit reduced, or are additional extensions of credit prohibited, only under the following circumstances: a. When the value of the dwelling securing the plan declines significantly below the appraised value? b. When the consumer's financial circumstances change materially and the creditor reasonably believes the consumer will be unable to meet the repayment obligations? c. When the consumer defaults on any material obligation under the agreement? d. When government action restricts an APR increase? e. When the bank's security interest is adversely affected because of government action to the extent that the security value is less than 120 percent of the credit line? f. When the bank is notified by its regulatory agency that continued advances constitute an unsafe and unsound practice? [12 CFR 1026.40(f)(3)(vi)]			
Account-Opening Disclosures for HELOCs			
15. Does the creditor disclose, as applicable, the circumstances under which a finance charge will be imposed and an explanation of how it will be determined, including a statement of when finance charges begin to accrue and an explanation of whether or not any grace period exists? [12 CFR 1026.6(a)(1)(i)]			
16. Does the creditor disclose each periodic rate that may be used to compute the finance charge, the range of balances to which it is applicable, and the corresponding APR? [12 CFR 1026.6(a)(1)(ii)] If a variable rate applies, does the creditor also disclose the circumstances under which the rate may increase, any limitations on the increase, and the effects of an increase? [12 CFR 1026.6(a)(1)(ii)] When different periodic rates apply to different types of transactions, does the creditor disclose the types of transactions to which the periodic rates apply? [12 CFR 1026.6(a)(1)(ii)]			
17. Does the creditor disclose an explanation of the method used to determine the balance on which the finance charge may be computed? [12 CFR 1026.6(a)(1)(iii)]			
18. Does the creditor disclose an explanation of how the amount of any finance charge will be determined, including a description of how any finance charge other than the periodic rate will be determined? [12 CFR 1026.6(a)(1)(iv)]			
19. Is there a statement of the amount of charges other than a finance charge that may be imposed, or an explanation of how the charge will be determined? [12 CFR 1026.6(a)(2)]			
20. Are conditions for terminating the HELOC plan, for prohibiting additional credit, for reducing the credit limit, and for implementing changes provided? [12 CFR 1026.6(a)(3)(i)]			
21. Are the payment terms for the HELOC plan provided per 12 CFR 1026.40(d) (if terms for draw and repayment period are different, the terms for each must be disclosed, as applicable), including a. the length of the draw period and any repayment period? b. an explanation of how the minimum periodic payment will be computed? c. the timing of periodic payments?			

Worksheet 9: Open-End Home-Secured Credit Forms Review			
Product type:			
	Yes	**No**	**NA**
d. if the periodic payment repays less than the balance or does not reduce principal (e.g., interest-only payments), a statement of that fact and that a balloon payment may or will result, as applicable? [12 CFR 1026.6(a)(3)(ii)]			
22. For the HELOC, is there a statement, if applicable, that negative amortization might occur, and that it increases the principal balance and reduces the consumer's equity in the dwelling? [12 CFR 1026.6(a)(3)(iii)]			
23. Is there a statement of transaction requirements for the HELOC? [12 CFR 1026.6(a)(3)(iv)]			
24. Is there a statement about tax implication and consulting a tax adviser for the HELOC? [12 CFR 1026.6(a)(3)(v)]			
25. Is there a statement that the APR does not include costs other than interest for the HELOC? [12 CFR 1026.6(a)(3)(vi)]			
26. Unless the disclosures provided with the application were in a form the consumer could keep and included a representative payment example for the category of payment option chosen by the consumer, are the following disclosures provided for variable rate HELOCs? [12 CFR 1026.6(a)(3)(vii)] a. The rules relating to changes to the index, APR, changes in the payment amount, including information on payment limitations and carryover? b. The minimum payment required (for both the draw and repayment periods) when the maximum APR is in effect for a $10,000 balance and the earliest date the maximum APR may be imposed? c. An example based on a $10,000 balance, reflecting all significant plan terms and showing how the APR and the minimum periodic payment amount would have been affected during the most recent 15 years by changes in the index? d. A statement that rate information will be provided on or with each periodic statement? e. An example based on a $10,000 balance and a recent APR showing the minimum periodic payment, any balloon payment, and the time it would take to repay the $10,000 balance making only the minimum payment while obtaining no additional credit? [12 CFR 1026.6(a)(3)(vii)]			
27. Has the fact that the creditor has or will acquire a security interest in the property purchased, or in other property identified by item or type, been disclosed? [12 CFR 1026.6(a)(4)]			
28. Is there a statement detailing consumer-billing rights and creditor's responsibilities under 12 CFR 1026.12(c) and 1026.13 included, and is it substantially similar to the statement in Model Form G-3, or at the creditor's option, G-3A in appendix G? [12 CFR 1026.6(a)(5)]			
29. Is the maximum interest rate disclosed when (a) in the case of closed-end credit, the APR may increase after consummation; or (b) in the case of open-end credit, the APR may increase during the plan. [12 CFR 1026.30(b)]			
Subsequent Disclosure Requirements [12 CFR 1026.9]			
30. Does the bank mail or deliver the annual statement of billing rights at least once a year? [12 CFR 1026.9(a)(1)] Or is an alternative summary statement provided with each periodic statement? [12 CFR 1026.9(a)(2)]			
31. Has the creditor retained evidence of compliance with Regulation Z for two years after the date disclosures were required to be made or action was required to be taken? [12 CFR 1026.25(a)]			

Worksheet 10: Credit and Charge Card Forms Review

Use this worksheet when reviewing credit and charge card forms for general applications as well as creditor-initiated direct mail applications, preapproved solicitations, and electronic applications. To complete, review the forms and place a check in each applicable cell. **Determine the accuracy of the disclosures by comparing them with the contract and other bank documents**. Forms that include or involve current transactions, such as change-in-terms notices, periodic billing statements, rescission notices, and billing error communications, are verified for accuracy when the file review worksheets are completed. Use this worksheet to review audit work papers, evaluate bank policies, and perform expanded procedures and training, as appropriate. Only complete worksheet sections that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the work papers.

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. When performing expanded procedures, a "no" answer indicates a violation and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 10: Credit and Charge Card Forms Review			
Product identification:			
Product type:			
	Yes	**No**	**NA**
Application and Solicitation Disclosures			
1. Were the solicitation or application disclosures made clearly and conspicuously on or with a solicitation or an application? [12 CFR 1026.60(a)(1)]			
2. For the disclosures in 12 CFR 1026.60(b)(1) through (5) (except for (b)(1)(iv)(B) and (b)(1)(iv)(C)) and (b)(7) through (15), did the creditor make the disclosures required for 12 CFR 1026.60(c), (d)(2), (e)(1), and (f) in the form of a table with headings, content, and format substantially similar to the applicable tables found in G-10 in appendix G? [12 CFR 1026.60(a)(2)(i)] **Note**: For an application or a solicitation that is accessed by the consumer in electronic form, the disclosures required under this section may be provided to the consumer in electronic form on or with the application or solicitation. [12 CFR 1026.60(a)(2)(v)]			
3. Does the table required by 12 CFR 1026.60(a)(2)(i) contain only the information required or permitted by that section? If the creditor provides other information, does such information appear outside the table? [12 CFR 1026.60(a)(2)(ii)]			
4. Are the disclosures required by 12 CFR 1026.60(b)(1)(iv)(B), (b)(1)(iv)(C), and (b)(6) placed directly beneath the table required by 12 CFR 1026.60(a)(2)(i)? [12 CFR 1026.60(a)(2)(iii)]			
5. When a tabular format is required, are the following disclosures in bold text? a. APR required to be disclosed pursuant to 12 CFR 1026.60(b)(1)? b. Introductory rate required to be disclosed pursuant to 12 CFR 1026.60(b)(1)(ii)?			

Worksheet 10: Credit and Charge Card Forms Review			
Product identification:			
Product type:			
	Yes	**No**	**NA**
c. Rate that will apply after a premium initial rate expires required to be disclosed under 12 CFR 1026.60(b)(1)(iii)? d. Fee or percentage amounts or maximum limits on fee amounts required to be disclosed pursuant to12 CFR 1026.60(b)(2), (b)(4), and (b)(8) through (b)(13)? [12 CFR 1026.60(a)(2)(iv)] **Note:** Bold text shall not be used for the amount of any periodic fee disclosed pursuant to 12 CFR 1026.60(b)(2) that is not an annualized amount; and other APRs or fee amounts disclosed in the table. [12 CFR 1026.60(a)(2)(iv)]			
6. Does the card issuer disclose each periodic rate that may be used to compute the finance charge on an outstanding balance for purchases, a cash advance, or a balance transfer, expressed as an APR; when more than one rate applies for a category of transactions, is the range of balances to which each rate is applicable also disclosed; and except for oral disclosures of the APR for purchases or a penalty rate that may apply upon the occurrence of one or more specific events, is the APR for purchases disclosed pursuant to 12 CFR 1026.60(b)(1) in at least 16-point type? [12 CFR 1026.60(b)(1)]			
7. If a rate is a variable rate, does the card issuer disclose the fact that the rate may vary and how the rate is determined; does the card issuer identify the type of index or formula that is used in setting the rate; are the value of the index and the amount of the margin that are used to calculate the variable rate not disclosed in the table; and are any applicable limitations on rate increases not included in the table? [12 CFR 1026.60(b)(1)(i)]			
8. If the initial rate is an introductory rate, does the card issuer disclose in the table the introductory rate, the time period during which the introductory rate will remain in effect, and the term “introductory” or “intro” in immediate proximity to the introductory rate; and does the card issuer disclose, as applicable, either the variable or fixed rate that would otherwise apply to the account? [12 CFR 1026.60(b)(1)(ii)]			
9. If the initial rate is temporary and is higher than the rate that will apply after the temporary rate expires, does the card issuer disclose the premium initial rate and the time period during which the premium initial rate will remain in effect; is the premium initial rate for purchases in at least 16-point type; and does the issuer disclose in the table the rate that will apply after the premium initial rate expires, in at least 16-point type? [12 CFR 1026.60(b)(1)(iii)]			
10. Except as provided for introductory rate (12 CFR 1026.60(b)(1)(iv)(B)) or employee preferential rate (12 CFR 1026.60(b)(1)(iv)(C)) requirements, if a rate may increase as a penalty for one or more events specified in the account agreement, such as a late payment or an extension of credit that exceeds the credit limit, does the card issuer disclose the increased rate that may apply, a brief description of the event or events that may result in the increased rate, and a brief description of how long the increased rate will remain in effect? [12 CFR 1026.60(b)(1)(iv)(A)]			
11. If the issuer discloses an introductory rate in the table or in any written or electronic promotional materials accompanying applications or solicitations (and subject to paragraph (c) or (e) of 12 CFR 1026.60), does the issuer briefly disclose, directly beneath the table, the circumstances, if any, under which the introductory rate may be revoked, and the type of rate that will apply after the introductory rate is revoked? [12 CFR 1026.60(b)(1)(iv)(B)]			

Worksheet 10: Credit and Charge Card Forms Review			
Product identification:			
Product type:			
	Yes	**No**	**NA**
12. If the issuer discloses in the table a preferential APR for which only employees of the card issuer, employees of a third party, or other individuals with similar affiliations with the card issuer or third party are eligible, does the issuer briefly disclose—directly beneath the table—the circumstances under which such preferential rate may be revoked, and the rate that will apply after such preferential rate is revoked? [12 CFR 1026.60(b)(1)(iv)(C)]			
13. If a rate cannot be determined at the time disclosures are given because the rate depends, at least in part, on a later determination of the consumer's creditworthiness, does the card issuer disclose the specific rates or the range of rates that could apply and a statement that the rate for which the consumer may qualify at account opening will depend on the consumer's creditworthiness, and other factors, if applicable? [12 CFR 1026.60(b)(1)(v)] **Note:** If the rate that depends, at least in part, on a later determination of the consumer's creditworthiness is a penalty rate, as described in 12 CFR 1026.60(b)(1)(iv), the card issuer at its option may disclose the highest rate that could apply, instead of disclosing the specific rates or the range of rates that could apply. [12 CFR 1026.60(b)(1)(v)]			
14. Does the card issuer refrain from listing APR rates for multiple states in the table? **Note**: Issuers imposing APRs that vary by state may, at the issuer's option, disclose in the table the specific APR applicable to the consumer's account; or the range of the APRs, if the disclosure includes a statement that the APR varies by state and refers the consumer to a disclosure provided with the table where the APR applicable to the consumer's account is disclosed. [12 CFR 1026.60(b)(1)(vi)]			
15. Does the card issuer disclose any annual or other periodic fee, expressed as an annualized amount, or any other fee that may be imposed for the issuance or availability of a credit or charge card, including any fee based on account activity or inactivity, and how frequently the fee is imposed? If the card issuer imposes a non-periodic fee that relates to account opening, does the issuer disclose that the fee is a one-time fee? [12 CFR 1026.60(b)(2)]			
16. Does the card issuer disclose any fixed finance charge that could be imposed during a billing cycle, as well as a brief description of that charge; any minimum interest charge if it exceeds $1.00 that could be imposed during a billing cycle; and a brief description of the charge? [12 CFR 1026.60(b)(3)]			
17. Does the creditor disclose any transaction charge imposed by the issuer for the use of the card for purchases? [12 CFR 1026.60(b)(4)]			
18. Does the issuer disclose the grace period and any conditions on the availability of the grace period; if no grace period is provided, is this fact disclosed; if the grace period varies, does the issuer disclose the range of days, the minimum number of days, or the average number of days in the grace period; in disclosing in the tabular format a grace period that applies to all types of purchases, is the phrase "How to Avoid Paying Interest on Purchases" used as the heading for the row describing the grace period; and if a grace period is not offered on all types of purchases, in disclosing this fact in the tabular format, is the phrase "Paying Interest" used as the heading for the row describing this fact? [12 CFR 1026.60(b)(5)]			
19. Does the creditor disclose the name of the balance computation method that is used to determine the balance on which the finance charge is computed, or an explanation of the method used if it is not listed? [12 CFR 1026.60(b)(6)] **Note**: Disclosures required by 12 CFR 1026.60(b)(6) must be placed directly beneath the table.			

Worksheet 10: Credit and Charge Card Forms Review			
Product identification:			
Product type:			
	Yes	**No**	**NA**
20. Does the creditor disclose a statement that charges incurred by use of the charge card are due when the periodic statement is received? [12 CFR 1026.60(b)(7)]			
21. Does the creditor disclose any fee imposed for an extension of credit in the form of cash or its equivalent? [12 CFR 1026.60(b)(8)]			
22. Does the creditor disclose any fee imposed for a late payment? [12 CFR 1026.60(b)(9)]			
23. Does the creditor disclose any fee imposed for exceeding the credit limit? [12 CFR 1026.60(b)(10)]			
24. Does the creditor disclose any fee imposed to transfer a balance? [12 CFR 1026.60(b)(11)]			
25. Does the creditor disclose any fee imposed for a returned payment? [12 CFR 1026.60(b)(12)]			
26. Does the creditor disclose any fee for insurance, debt cancellation, or suspension coverage if these are required as part of the plan and include a reference to any accompanying information provided about the insurance or coverage? [12 CFR 1026.60(b)(13)]			
27. If the total of required fees for the issuance or availability of credit and/or security deposit debited to the account at account opening equals or exceeds 15 percent of the minimum credit limit for the account, does the creditor disclose the available credit remaining after the fees and/or security deposit are debited to the account? [12 CFR 1026.60(b)(14)]			
28. For issuers of credit cards and charge cards, does the creditor disclose a reference to the CFPB's Web site and a statement that the consumers may obtain on the Web site information about shopping for and using credit cards? [12 CFR 1026.60(b)(15)]			
29. Has the creditor retained evidence of compliance with Regulation Z for two years after the date disclosures were required to be made or action was required to be taken? [12 CFR 1026.25(a)]			

Worksheet 11:
Open-End Credit File Review

Use this worksheet when reviewing all open-end credit. To complete, review loan files and place a check in each applicable cell. **Determine the accuracy of the disclosures by comparing them with the contract and other bank documents**. Use this worksheet to review audit work papers, evaluate bank policies, and perform expanded procedures and training, as appropriate. Only complete worksheet sections that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the work papers.

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. When performing expanded procedures, a "no" answer indicates a violation and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 11: Open-End Credit File Review General and Subsequent Disclosures, Payments, Balances, Terminations, Renewals, Unauthorized Charges, and Billing Errors			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
1. Is the timing of disclosures provided in accordance with all sections of 12 CFR 1026.5(b)(1)?			
2. If the creditor collected an application fee excludable from the finance charge before providing account-opening disclosures and the consumer rejected the plan after receiving account-opening disclosures, was the consumer under no obligation to pay such an application fee, or if the fee was paid, was it refunded? [12 CFR 1026.5(b)(1)(v)]			
3. Are periodic statements provided for each billing cycle in which the account has a debit or credit balance of more than $1 or a finance charge was imposed? [12 CFR 1026.5(b)(2)(i)]			
4. Does the disclosure reflect the terms of the legal obligation between the parties, and if any necessary information for accurate disclosure is unknown, is the disclosure based on the best information reasonably available and states clearly that the disclosure is an estimate? [12 CFR 1026.5(c)]			
5. Except for checks that access a credit card account, if the creditor adds a credit feature or furnishes a credit access device 30 days after providing account opening disclosures, does the creditor indicate that the feature or device is for use in obtaining credit under the terms previously disclosed? [12 CFR 1026.9(b)(1)]			
6. Except for checks that access a credit card account, are the 12 CFR 1026.6(a)(1) or 1026.6(b)(3)(ii)(A) disclosures for an added feature or credit device with different finance charge terms provided before the consumer uses the feature or device for the first time? [12 CFR 1026.9(b)(2)]			
7. If checks that can be used to access a credit card account are provided more than 30 days after account-opening disclosures under 12 CFR 1026.6(b) are mailed or delivered, or are provided within 30 days of the account-opening disclosures and			

Worksheet 11: Open-End Credit File Review General and Subsequent Disclosures, Payments, Balances, Terminations, Renewals, Unauthorized Charges, and Billing Errors			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
the finance charge terms for the checks differ from the finance charge terms previously disclosed, did the creditor disclose on the front of the page containing the checks the following terms in the form of a table with the headings, content, and form substantially similar to Sample G-19 in appendix G to this part: a. If a promotional rate applies to the checks; the promotional rate and the time period during which the promotional rate will remain in effect; the type of rate that will apply after the promotional rate expires; the APR that will apply after the promotional rate expires; if a variable-rate account, an APR based on the applicable index or formula in accordance with the accuracy requirements set forth in 12 CFR 1026.9(b)(3)(ii); the date, if any, by which the consumer must use the checks in order to qualify for the promotional rate; if the creditor will honor checks used after such date but will apply an APR other than the promotional rate, a disclosure of this fact and the type of APR that will apply if the consumer uses the checks after such date? [12 CFR 1026.9(b)(3)(i)(A)] b. If no promotional rate applies to checks that can be used to access a credit card account, the type of rate that will apply to the checks and the applicable APR; and, if a variable-rate account, an APR based on the applicable index or formula in accordance with the accuracy requirements set forth in 12 CFR 1026.9(b)(3)(ii)? [12 CFR 1026.9(b)(3)(i)(B)] c. Transaction fees applicable to checks disclosed under 12 CFR 1026.6(b)(2)(iv)? [12 CFR 1026.9(b)(3)(i)(C)] d. When disclosing whether there is a grace period (whether or not a grace period is given) did the creditor use the phrase “How to Avoid Paying Interest on Check Transactions” as the row heading when a grace period applies to credit extended by the use of checks? When disclosing the fact that no grace period exists, did the creditor use the phrase “Paying Interest” as the row heading?) [12 CFR 1026.9(b)(3)(i)(D)] e. If any APR required to be disclosed pursuant to 12 CFR 1026.9(b)(3)(i) is a variable rate, does the creditor disclose the fact that the rate may vary and how the rate is determined; does the creditor identify the type of index or formula used in setting the rate; does the creditor refrain from disclosing the value of the index and the amount of the margin that are used to calculate the variable rate in the table; and did the creditor refrain from disclosing any applicable limitations on rate increases in the table? [12 CFR 1026.9(b)(3)(iii)]			
8. Are written advance notices of any significant changes in account terms or increase in the required minimum payment provided at least 45 days before the effective date of the change, unless an exception (including that the consumer has agreed to the change per 12 CFR 1026.9(c)(2)(i)(B)) applies? [12 CFR 1026.9(c)(2)(i)] **Note**: The 45-day timing requirement does not apply if the consumer has agreed to a particular change. [12 CFR 1026.9(c)(2)(i)(B)] For these instances, however, the creditor must provide a notice in accordance with the timing requirements of 12 CFR 1026.9(c)(2)(i)(B), i.e., mailed or delivered as late as the effective date of the change.			
9. If the creditor increases any component of a charge on a credit card account or introduces a new charge required to be disclosed under 12 CFR 1026.6(b)(3) that is not a significant charge, did the creditor either comply with the 45-day notice requirement or provide notice of the amount of the charge before the consumer agrees to or becomes obligated to pay the charge, at a time and in a manner that a			

Worksheet 11: Open-End Credit File Review General and Subsequent Disclosures, Payments, Balances, Terminations, Renewals, Unauthorized Charges, and Billing Errors			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
consumer would be likely to notice the disclosure of the charge, either in writing or orally? [12 CFR 1026.9(c)(2)(iii)]			
10. Does the written change-in-terms notice include, in the proper format, the following: a. A summary of the changes, any increase in the required minimum payment, and the security interest being acquired? [12 CFR 1026.9(c)(2)(iv)(A)(1)] b. A statement that changes are being made to the account? [12 CFR 1026.9(c)(2)(iv)(A)(2)] c. For accounts other than credit card accounts under an open-end (not home-secured) consumer credit plan subject to 12 CFR 1026.9(c)(2)(iv)(B), a statement indicating that the consumer has the right to opt out of the changes, if applicable, and a reference to the opt-out right provided in the notice? [12 CFR 1026.9(c)(2)(iv)(A)(3)] d. The date the changes will become effective? [12 CFR 1026.9(c)(2)(iv)(A)(4)] e. If applicable, a statement that the consumer may find additional information about the summarized changes, and other changes, in the notice? [12 CFR 1026.9(c)(2)(iv)(A)(5)] f. In the case of a rate change, other than a penalty rate, a statement that if a penalty rate currently applies to the consumer's account, the new rate described in the notice will not apply to the consumer's account until the consumer's account balances are no longer subject to the penalty rate? [12 CFR 1026.9(c)(2)(iv)(A)(6)] g. If the change in terms being disclosed is an increase in the APR, the balances to which the increased rate will apply; and if applicable, a statement identifying the balances to which the current rate will apply as of the effective date of the change? [12 CFR 1026.9(c)(2)(iv)(A)(7)] h. If the change in terms being disclosed is an increase in an APR for a credit card account under an open-end (not home-secured) consumer credit plan, a statement of no more than four principal reasons for the rate increase, listed in their order of importance? [12 CFR 1026.9(c)(2)(iv)(A)(8)] **Note:** The disclosed reasons must accurately describe the principal factors actually considered by the card issuer in increasing the rate. [Commentary 12 CFR 1026.9(c)(2)(iv)–11]			
11. Except in the case of an increase in the required minimum periodic payment, a change in the APR, a change in the balance computation method necessary to comply with 12 CFR 1026.54, an increase in a fee resulting from reevaluation of a determination made under 12 CFR 1026.52(b)(1)(i), or a regulatory adjustment to the safe harbor provision at 12 CFR 1026.52(b)(1)(ii), when the change results from the creditor not receiving the required minimum periodic payment within 60 days after the due date for that payment, or an increase in a fee previously reduced consistent with the SCRA or similar federal or state statute or regulation if the amount of the increased fee does not exceed the amount of that fee before the reduction, did the card issuer provide a. a statement that the consumer has the right to reject the change or changes before the effective date of the changes, unless the consumer fails to make a required minimum periodic payment within 60 days after the due date for payment?			

Worksheet 11: Open-End Credit File Review General and Subsequent Disclosures, Payments, Balances, Terminations, Renewals, Unauthorized Charges, and Billing Errors			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
b. instructions for rejecting the change or changes, and a toll-free telephone number that the consumer may use to notify the creditor of the rejection? c. if applicable, a statement that if the consumer rejects the change or changes, the consumer's ability to use the account for further advances will be terminated or suspended? [12 CFR 1026.9(c)(2)(iv)(B)]			
12. For credit card accounts, if the significant change required to be disclosed is an increase in an APR or fee or charge required to be disclosed under 12 CFR 1026.6(b)(2)(ii), (b)(2)(iii), or (b)(2)(xii) based on the consumer's failure to make a minimum periodic payment within 60 days from the due date for that payment, does the 45-day notice include the following information: a. A statement of the reason for the increase? b. That the increase will cease to apply to transactions that occurred before or within 14 days of provision of the notice, if the creditor receives six consecutive required minimum periodic payments on or before the payment due date beginning with the first payment due following the effective date of the increase? [12 CFR 1026.9(c)(2)(iv)(C)]			
13. Is the summary of changes described in 12 CFR 1026.9(c)(2)(iv)(A)(1) in a tabular format (except for a summary of any increase in the required minimum periodic payment, a summary of a term required to be disclosed under 12 CFR 1026.6(b)(4) that is not required to be disclosed under 12 CFR 1026.6(b)(1) and (b)(2), or a description of any security interest being acquired by the creditor), with headings and format substantially similar to any of the account-opening tables found in G-17 in appendix G; does the table disclose the changed term and information relevant to the change, if that relevant information is required by 12 CFR 1026.6(b)(1) and (b)(2); and are the new terms described in the same level of detail as required when disclosing the terms under 12 CFR 1026.6(b)(2) (account opening)? [12 CFR 1026.9(c)(2)(iv)(D)(1)]			
14. If a notice required by 12 CFR 1026.9(c)(2)(i) (change in terms) is included on or with a periodic statement, is the information described in 12 CFR 1026.9(c)(2)(iv)(A)(1) disclosed on the front of any page of the statement, and does it immediately follow the information described in paragraph (c)(2)(iv)(A)(2) through (c)(2)(iv)(A)(8) and, if applicable, paragraphs (c)(2)(iv)(B) and (c)(2)(iv)(C), and is it substantially similar to the format shown in Sample G-20 or G-21 in appendix G? [12 CFR 1026.9(c)(2)(iv)(D)(2)]			
15. If a notice required by 12 CFR 1026.9(c)(2)(i) (change in terms) is not included on or with a periodic statement, is the information described in 12 CFR 1026.9(c)(2)(iv)(A)(1), at the creditor's option, disclosed on the front of the first page of the notice or segregated on a separate page from other information given with the notice? The summary of changes may be on more than one page, and may use both the front and reverse sides, but if so, does the table begin on the front of the first page of the notice and is there a reference on the first page indicating that the table continues on the following page? [12 CFR 1026.9(c)(2)(iv)(D)(3)]			
16. For a notice required by 12 CFR 1026.9(c)(2)(i) that is provided separately from the periodic statement, is the summary of changes described in 12 CFR 1026.9(c)(2)(iv)(A)(1) immediately following the information described in 12 CFR 1026.9(c)(2)(iv)(A)(2) through (c)(2)(iv)(A)(7) and, if applicable, paragraphs			

Worksheet 11: Open-End Credit File Review General and Subsequent Disclosures, Payments, Balances, Terminations, Renewals, Unauthorized Charges, and Billing Errors			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
(c)(2)(iv)(A)(8), (c)(2)(iv)(B), and (c)(2)(iv)(C), substantially similar to the format shown in Sample G-20 or G-21 in appendix G? [12 CFR 1026.9(c)(2)(iv)(D)(3)]			
17. Was a notice of a decrease in the credit limit provided in writing or orally at least 45 days before an over-the-limit fee or penalty rate is imposed as a result of a consumer exceeding the newly decreased credit limit; and does the notice state that the credit limit on the account has been or will be decreased? [12 CFR 1026.9(c)(2)(vi)]			
18. If the card issuer imposes any annual or other periodic fee to renew a credit or charge card account, does the card issuer provide required disclosures at least 30 days or one billing cycle, whichever is less, before the mailing or delivery of the periodic statement on which the renewal fee is initially charged to the account; and if the card issuer has changed or amended any term of the account required to be disclosed under 12 CFR 1026.6(b)(1) and (b)(2) that has not previously been disclosed to the consumer, has the notice been provided at least 30 days before the scheduled renewal date of the consumer's credit or charge card? [12 CFR 1026.9(e)(1)]			
19. Does the renewal disclosure contain the disclosures required by 12 CFR 1026.60(b)(1) through (b)(7)? [12 CFR 1026.9(e)(1)(i)]			
20. Does the renewal disclosure include how and when the cardholder may terminate the credit to avoid paying the renewal fee? [12 CFR 1026.9(e)(1)(ii)]			
21. If the renewal disclosure is provided on the back of a periodic statement, has the card issuer included a reference to those disclosures on the front of the statement? [12 CFR 1026.9(e)(2)]			
22. When the insurance provider is changed, are credit insurance disclosures provided at least 30 days before the change in provider occurs; and does the insurance notice include any resulting increase in the rate, any resulting substantial decrease in coverage;, and a statement that the cardholder may discontinue the insurance? [12 CFR 1026.9(f)(1)]			
23. If the provider of insurance changes, did the issuer provide the cardholder with a written notice no later than 30 days after the change that includes the following: name and address of the new insurance provider; copy of the new policy or group certificate containing the basic terms of the insurance, including the rate to be charged; and a statement that the cardholder may discontinue the insurance? [12 CFR 1026.9(f)(2)] **Note:** The notices required by 12 CFR 1026.9(f)(1) and (f)(2) may be combined provided they meet timing requirement of 12 CFR 1026.9(f)(1).			
24. For plans other than home-equity plans subject to the requirements of 12 CFR 1026.40, unless the exception at 12 CFR 1026.9(g)(4) applies, did the creditor provide a written notice a. to each consumer who may be affected when a rate is increased because of the consumer's delinquency or default? [12 CFR 1026.9(g)(1)(i)] b. to each consumer who may be affected when a rate is increased as a penalty for one or more events specified in the account agreement, such as making a late payment or obtaining an extension of credit that exceeds the credit limit? [12 CFR 1026.9(g)(1)(ii)] c. at least 45 days before the effective date of an increase in the rate because of delinquency, default, or as a penalty for a specified event, like late payment or			

Worksheet 11: Open-End Credit File Review General and Subsequent Disclosures, Payments, Balances, Terminations, Renewals, Unauthorized Charges, and Billing Errors			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
an extension of credit in excess of the credit limit, and was the notice provided after the occurrence of the triggering event? [12 CFR 1026.9(g)(2)]			
25. If a notice required by 12 CFR 1026.9(g)(1) (increase in rates due to delinquency or default or as a penalty) is included on or with a periodic statement, was the disclosure provided in the form of a table and provided on the front of any page of the periodic statement? [12 CFR 1026.9(g)(3)(ii)(A)]			
26. If the notice described in 12 CFR 1026.9(c)(2)(iv) (significant changes in account terms) is provided on the same statement, is the increase in rates disclosure above that notice? [12 CFR 1026.9(g)(3)(ii)(A)]			
27. If a notice required by 12 CFR 1026.9(g)(1) is not included on or with a periodic statement, is the information described in paragraph 12 CFR 1026.9(g)(3)(i) disclosed on the front of the first page of the notice, and is only information related to the increase in the rate to a penalty rate included with the notice? [12 CFR 1026.9(g)(3)(ii)(B)] **Note:** This notice may be combined with a notice described in paragraph 12 CFR 1026.9(c)(2)(iv) or 1026.9(g)(4).			
28. Does the written notice include the following: a. Statement that the delinquency or default rate or penalty rate, as applicable, has been triggered? b. Date on which the delinquency or default rate will apply? c. Circumstances under which the delinquency or default rate, as applicable, will cease to apply, or if it will remain in effect indefinitely? d. Statement indicating to which balances the delinquency or default rate or penalty rate will be applied? e. If applicable, a description of any balances to which the current rate will continue to apply as of the effective date of the rate increase, unless a consumer fails to make a minimum periodic payment within 60 days from the due date for that payment? f. For a credit card account under an open-end (not home-secured) consumer credit plan, a statement of no more than four principal reasons for the rate increase, listed in their order of importance? [12 CFR 1026.9(g)(3)(i)(A)] **Note:** The disclosed reasons must accurately describe the principal factors actually considered by the card issuer in increasing the rate. [Commentary 12 CFR 1026.9(g)–7]			
29. If the rate increase required to be disclosed is an increase pursuant to 12 CFR 1026.55(b)(4) based on the consumer's failure to make a minimum periodic payment within 60 days from the due date for that payment, does the notice also contain a statement that the increase will cease to apply to transactions that occurred before or within 14 days of provision of the delinquency or penalty notice, if the creditor receives six consecutive required minimum periodic payments on or before the payment due date, beginning with the first payment due following the effective date of the increase? [12 CFR 1026.9(g)(3)(i)(B)]			
30. If applicable, is a written notice provided 45 days in advance of imposing a penalty rate as a result of a consumer obtaining an extension of credit that exceeds the credit limit that includes			

Worksheet 11: Open-End Credit File Review General and Subsequent Disclosures, Payments, Balances, Terminations, Renewals, Unauthorized Charges, and Billing Errors			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
a. a statement that the credit limit on the account has been or will be decreased? b. a statement indicating the date on which the penalty rate will apply, if the outstanding balance exceeds the credit limit as of that date c. a statement that the penalty rate will not be imposed on the date, if the outstanding balance does not exceed the credit limit as of that date? d. the circumstances under which the penalty rate, if applied, will cease to apply to the account, or that the penalty rate, if applied, will remain in effect for a potentially indefinite time period? e. a statement indicating to which balances the penalty rate may be applied? f. if applicable, a description of any balances to which the current rate will continue to apply as of the effective date of the rate increase, unless the consumer fails to make a minimum periodic payment within 60 days from the due date for that payment? [12 CFR 1026.9(g)(4)(i)(A)] **Note:** If the above notice is provided, the creditor is not required to provide the notice under 12 CFR 1026.9(g)(1).			
31. Did the creditor refrain from increasing the rate applicable to the consumer's account to the penalty rate if the outstanding balance did not exceed the credit limit on the date set forth in the notice? [12 CFR 1026.9(g)(4)(ii)]			
32. Is the information provided pursuant to 12 CFR 1026.9(g)(4)(i) in the form of a table and provided on the front of any page of the periodic statement; or on the front of the first page of the notice? [12 CFR 1026.9(g)(4)(iii)] **Note:** Only the information related to the reduction in credit limit may be included with the notice, except that this notice may be combined with a notice described in 12 CFR 1026.9(c)(2)(iv) or 1026.9(g)(1).			
33. When the consumer is given the right to reject a significant change to an account term, was the consumer given the option to reject the change by notifying the creditor of the rejection before the effective date of the change? [12 CFR 1026.9(h)(1)]			
34. If the creditor was notified of the rejection of a significant change to an account term, did the creditor a. not apply the change or increase to the account? b. not impose a fee or charge or treat the account as in default solely as a result of the rejection? c. not require repayment of the balance of the account using a method that is *less* beneficial to the consumer than one of the following methods: i. The method of repayment for the account on the date on which the creditor was notified of the rejection? ii. An amortization period of not less than five years, beginning no earlier than the date on which the creditor was notified of the rejection? iii. A required minimum periodic payment that includes a percentage of the balance that is equal to no more than twice the percentage required on the date on which the creditor was notified of the rejection? [12 CFR 1026.9(h)(2)]			

Worksheet 11: Open-End Credit File Review General and Subsequent Disclosures, Payments, Balances, Terminations, Renewals, Unauthorized Charges, and Billing Errors			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
Note: 12 CFR 1026.9(h) does not apply if the creditor has not received the consumer's required minimum periodic payment within 60 days after the due date for that payment and the creditor has provided timely change in terms disclosures. [12 CFR 1026.9(h)(3)]			
35. Are payments credited to a consumer's account as of the date of receipt, except when a delay in crediting does not result in a finance charge or other charge or where there is an exception as provided in 12 CFR 1026.10(b)? [12 CFR 1026.10(a)]			
36. If a creditor specifies requirements for payments, are they reasonable and do they allow most consumers to make conforming payments? [12 CFR 1026.10(b)(1)]			
37. If the creditor sets a cut-off time for payments to be received by mail, by electronic means, by telephone, or in person, is the cut-off time 5 p.m. or later on the payment due date at the location specified by the creditor for the receipt of such payments? [12 CFR 1026.10(b)(2)(ii)]			
38. For in-person payments at a financial institution branch or office that accepts such payments, does the card issuer not impose a cut-off time earlier than the close of business for any such in-person payments (unless the close of business of the branch or office is earlier than 5 p.m.)? [12 CFR 1026.10(b)(3)(i)]			
39. Except as provided by 12 CFR 1026.10(b)(4)(ii), if a creditor specifies, on or with the periodic statement, requirements for the consumer to follow in making payments as permitted under 12 CFR 1026.10, but accepts a payment that does not conform to the requirements, is the payment credited within five days of receipt? [12 CFR 1026.10(b)(4)(i)]			
40. If the creditor promotes a method for making payments, does the creditor consider such payments conforming payments in accordance with 12 CFR 1026.10(b), and are they are credited to the consumer's account as of the date of receipt, except when a delay in crediting does not result in a finance charge or other charge? [12 CFR 1026.10(b)(4)(ii)]			
41. If a creditor fails to credit a payment as required and imposes a finance or other charge, does the creditor credit the charge(s) to the consumer's account during the next billing cycle? [12 CFR 1026.10(c)]			
42. If (due to a weekend or holiday, for example) a creditor does not receive or accept payments by mail on the due date for payments, does the creditor treat as timely a payment received on the next business day? [12 CFR 1026.10(d)(1)]			
43. For credit card accounts under an open-end (not home-secured) consumer credit plan, does the creditor not impose a separate fee to allow consumers to make a payment by any method, such as mail, electronic, or telephone payments, unless such payment method involves an expedited service by a customer service representative of the creditor? [12 CFR 1026.10(e)] **Note:** For purposes of 12 CFR 1026.10(e), the term "creditor" includes a third party that collects, receives, or processes payments on behalf of a creditor.			
44. If a card issuer makes a material change in the address for receiving payments or procedures for handling payments, and such change causes a material delay in the crediting of a payment to a consumer's account during the 60-day period following the date on which such change took effect, does the card issuer not impose any late fee or finance charge for a late payment on the credit card account during the 60-day period following the date on which the change took effect? [12 CFR 1026.10(f)]			

Worksheet 11: Open-End Credit File Review General and Subsequent Disclosures, Payments, Balances, Terminations, Renewals, Unauthorized Charges, and Billing Errors			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
45. If the account's credit balance is in excess of $1, does the bank credit the amount to the consumer's account and either refund any part of the remaining credit balance within seven business days from receiving a written request from the consumer; or if no written request is received and the credit remains for more than six months, make a good faith effort to refund the amount of the credit to the consumer by cash, check, money order, or credit to a deposit account of the consumer? [12 CFR 1026.11(a)]			
46. Did the creditor refrain from terminating an account before its expiration date solely because the consumer did not incur a finance charge? [12 CFR 1026.11(b)(1)]			
47. Except for the account of a deceased consumer if a joint accountholder remains on the account, has the card issuer adopted reasonable written policies and procedures designed to ensure that an administrator of an estate of a deceased accountholder can determine the amount of and pay any balance on the account in a timely manner? [12 CFR 1026.11(c)(1)(i)]			
48. Upon request by the administrator of an estate, does the card issuer provide the administrator with the amount of the balance on a deceased consumer's account in a timely manner, i.e., within 30 days of receiving the request? [12 CFR 1026.11(c)(2)(i)]			
49. After receiving a request from the administrator of an estate for the amount of the balance on a deceased consumer's account, does the card issuer not impose any fees on the account (such as a late fee, annual fee, or over the-limit fee) or increase any APR, except as provided by 12 CFR 1026.55(b)(2) (i.e., due to the operation of an index)? [12 CFR 1026.11(c)(3)(i)]			
50. If payment in full of the disclosed balance, pursuant to paragraph 12 CFR 1026.11(c)(2), is received within 30 days after disclosure, does the card issuer waive or rebate any additional finance charge due to a periodic interest rate? [12 CFR 1026.11(c)(3)(ii)]			
51. Are credit cards issued only upon request or application or as a renewal of or substitute for an accepted credit card? [12 CFR 1026.12(a)]			
52. Is liability for unauthorized credit card use limited to a maximum of $50? [12 CFR 1026.12(b)(1)]			
53. Are disputes handled properly? Also, determine if the card issuer reports the disputed amount withheld by the consumer as delinquent only if the disputed amount remains unpaid after the dispute has been settled or judgment has been rendered against the consumer. [12 CFR 1026.12(c)]			
54. Is offsetting credit card indebtedness prohibited? [12 CFR 1026.12(d)(1)]			
55. Are billing errors resolved within two complete billing cycles (in no event more than 90 days)? [12 CFR 1026.13(c)(2)]			
56. Has the creditor retained evidence of compliance with Regulation Z for two years after the date disclosures were required to be made or action was required to be taken? [12 CFR 1026.25(a)]			

Worksheet 12: Home Equity Line of Credit File Review

Use this worksheet when reviewing HELOCs. To complete, review loan files and place a check in each applicable cell. **Determine the accuracy of the disclosures by comparing them with the contract and other bank documents**. Use this worksheet to review audit work papers, evaluate bank policies, and perform expanded procedures and training, as appropriate. Only complete worksheet sections that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the work papers.

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. When performing expanded procedures, a "no" answer indicates a violation and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 12: Home Equity Line of Credit File Review			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
If the HELOC is a high-cost mortgage under 12 CFR 1026.32(a) begin here, but if the loan does not meet the high-cost triggers, proceed to question 8. 1. Are high-cost disclosures provided at least three business days before account opening? [12 CFR 1026.31(c)(1) and 1026.34(c)] **Note:** For purposes of 12 CFR 1026.31(c), the term "business day" means all calendar days except Sundays and legal holidays. [12 CFR 1026.2(a)(6)]			
2. If the terms change before account opening so that the disclosures are inaccurate, are new disclosures provided at least three business days before account opening? [12 CFR 1026.31(c)(1)(i)]			
3. Does any waiver of the three business day waiting period comply with 12 CFR 1026.31(c)(1)(iii) and bear the signature of all consumers entitled to the waiting period? [12 CFR 1026.31(c)(1)(iii)]			
4. Does the bank disclose the following in a conspicuous type size: a. The required notice? [12 CFR 1026.32(c)(1)] b. APR? [12 CFR 1026.32(c)(2)] c. Examples of first minimum periodic payments for the draw period, first minimum periodic payment for any repayment period, balance outstanding at the beginning of any repayment period, any balloon payment and required statements? [12 CFR 1026.32(c)(3)(ii)] d. Required information regarding the variable rate, if applicable? [12 CFR 1026.32(c)(4)] e. The credit limit? [12 CFR 1026.32(c)(5)]			
5. Are these terms absent from the mortgage transaction:			

Worksheet 12: Home Equity Line of Credit File Review			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
a. Balloon payment, unless the payment adjustment results from a distinct repayment period that does not permit draws? [12 CFR 1026.32(d)(1), (d)(1)(iii)] b. Negative amortization? [12 CFR 1026.32(d)(2)] c. Advance payments of more than two periodic payments? [12 CFR 1026.32(d)(3)] d. Increased interest rate after default? [12 CFR 1026.32(d)(4)] e. Refund calculation by method less favorable than the actuarial method for rebates of interest arising from loan acceleration due to default? [12 CFR 1026.32(d)(5)] f. Prepayment penalties as defined in 12 CFR 1026.32(b)(6)? [12 CFR 1026.32(d)(6)] **Note:** Prepayment penalties do not include recovered conditionally waived bona fide third-party charges before the 36th month from consummation or account opening or, if an FHA insured loan, interest charged that is consistent with the monthly interest accrual amortization method. g. Due-on-demand clause (unless an exception applies)? [12 CFR 1026.32(d)(8)]			
6. Does the bank a. pay a contractor under a home improvement contract from mortgage proceeds only as allowed in 12 CFR 1026.34(a)(1)? b. sell or assign a mortgage only when furnishing the required notice to assignee? [12 CFR 1026.34(a)(2)] c. refinance a high-cost mortgage into another high-cost mortgage only after one year, unless in the consumer's interest? [12 CFR 1026.34(a)(3)] d. only make an open-end high-cost mortgage (except a temporary or bridge loan with a term of less than 12 months) if the consumer has the ability to repay based on the consumer's current income, reasonably expected income, employment, assets other than the collateral, or current obligations, including any mortgage-related obligations secured by the same dwelling that secures the loan? [12 CFR 1026.34(a)(4)] e. determine the consumer's repayment ability for loans described in step 6.d above by verifying income or assets relied upon and current obligations? [12 CFR 1026.34(a)(4)(ii)] f. receive written certification that the consumer received counseling from a HUD-approved counselor (or a state housing finance authority, if permitted by HUD) in compliance with 12 CFR 1026.34(a)(5) before extending credit? [12 CFR 1026.34(a)(5)] g. refrain from recommending or encouraging a consumer to default on existing debt in order to refinance any portion into a high-cost mortgage? [12 CFR 1026.34(a)(6)] h. refrain from charging a fee to modify, renew, extend, or defer payment due on a high-cost mortgage? [12 CFR 1026.34(a)(7)] i. charge a late payment fee, only if permitted under the loan agreement, when a payment is not received by the end of the 15-day period beginning on payment due date (or, in the case when interest on each installment is to be paid in advance, the end of the 30-day period beginning on the payment due date), and			

Worksheet 12: Home Equity Line of Credit File Review			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
only if the amount of the fee does not exceed 4 percent of the amount past due? [12 CFR 1026.34(a)(8)(i)-(iii)] **Note:** Bank cannot pyramid by charging another late fee if delinquency consists only of prior late payment fee. j. apply a separate late payment fee to payments outstanding until the default is cured, only if the agreement permits the bank to apply payments to any past due balance first? [12 CFR 1026.34(a)(8)(iv)] k. provide payoff statements within five business days without charge (unless charging for at least the fifth payoff statement provided in a calendar year) and, if charging a fee for delivering the statement by fax or courier, charge the fee only after disclosing free delivery methods and at a cost comparable to similar services provided for non-high-cost mortgages? [12 CFR 1026.34(a)(9)] l. extend a high-cost mortgage without financing charges that are points and fees as defined in 12 CFR 1026.32(b)(2)? [12 CFR 1026.34(a)(10)] **Note:** Credit insurance premiums or debt cancellation/suspension fees that are points and fees under 12 CFR 1026.32(b)(2)(iv) are not considered financed when they are calculated and paid in full on a monthly basis.			
7. Has the creditor avoided structuring a loan that is otherwise a high-cost mortgage to evade the Regulation Z requirements? [12 CFR 1026.34(b)]			
8. Are the disclosures and brochure, which are required to be given at application, provided to the consumer or within three business days of receipt of an application in the case of applications contained in magazines or other publications or if the application is received through a broker or by telephone? [12 CFR 1026.40(b)] **Note:** Generally, the disclosures required by subpart B may be provided to the consumer in electronic form, subject to compliance with consumer consent and other applicable provisions of the E-Sign Act. The disclosures required by 12 CFR 1026.40, however, may be provided to the consumer in electronic form without regard to the consumer consent or other provisions of the E-Sign Act in the circumstances set forth in those sections. [12 CFR 1026.5(a)(iii)]			
9. If a credit feature or credit device is added within 30 days after mailing or delivering the account-opening disclosures (including checks) or after 30 days (excluding checks) under the terms previously disclosed, does the bank indicate that the feature or device is for use in obtaining credit under the terms previously disclosed? [12 CFR 1026.9(b)(1)]			
10. If a credit feature or credit device, except for checks that access a credit card account, is added and the finance charge terms differ from those previously disclosed, are the 12 CFR 1026.6(a) disclosures for an added feature or credit device with different finance charge terms provided before the consumer uses the feature or device? [12 CFR 1026.9(b)(2)]			
11. If the HELOC is secured by the consumer's principal dwelling (except a time-share plan), is the agreement devoid of any terms that would require arbitration or any other nonjudicial procedure to resolve a controversy or settle claims arising from the loan, or bar the consumer from bringing a claim in court for any federal statutory cause of action? [12 CFR 1026.36(h)]			
12. If there are premiums or fees for credit insurance in connection with a HELOC secured by the consumer's principal dwelling (except a time-share plan), are the fees *not* financed, either directly or indirectly, by the creditor? [12 CFR 1026.36(i)] **Note:** The prohibition does not apply if the credit insurance premiums or fees are calculated and paid in full on a monthly basis. [12 CFR 1026.36(i)]			

Worksheet 12: Home Equity Line of Credit File Review			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
13. Did the creditor mail or deliver written notice of a change in any term required to be disclosed under 12 CFR 1026.6(a) or an increase in the required minimum periodic payment at least 15 days before the effective date of the change? [12 CFR 1026.9(c)(1)(i)] **Note:** This notice is not required when the change involves a reduction of any component of a finance or other charge or when the change results from an agreement involving a court proceeding. [12 CFR 1026.9(c)(1)(ii)] The 15-day timing requirement does not apply if the consumer agreed to the change; the notice, however, still must be given. [12 CFR 1026.9(c)(1)(i)]			
14. If the creditor prohibits additional extensions of credit or reduces the credit limit, did the creditor mail or deliver notice of the action to each consumer who will be affected not later than three business days after such action is taken, and does the notice contain the specific reasons for the action and notice that the consumer must request reinstatement, if applicable? [12 CFR 1026.9(c)(1)(iii)]			
15. Are all fees refunded when the consumer rejects the plan because a term required to be disclosed (other than due to fluctuations in the index for a variable rate plan) changes before the plan is opened? [12 CFR 1026.40(g)]			
16. Does the bank collect only refundable fees, if any, from the consumer before the end of three business days from delivering the disclosures (six days from the date of mailing, if mailed)? [12 CFR 1026.40(h)]			
17. Has the bank refunded any fees that it collected from the consumer before it delivered the required disclosures if the consumer rejected the plan within three business days after receiving the disclosures (even if there is no change in the disclosed terms)? [12 CFR 1026.40(h)]			
18. Are payments credited to a consumer's account as of the date of receipt, except when a delay in crediting does not result in a finance charge or other charge or as otherwise provided? [12 CFR 1026.10(a)]			
19. If a creditor specifies requirements for payments, are they reasonable and do they allow most consumers to make conforming payments? [12 CFR 1026.10(b)(1)]			
20. If the creditor sets a cutoff time for payments to be received by mail, by electronic means, by telephone, or in person, is the cutoff time 5 p.m. or later on the payment due date at the location specified by the creditor for the receipt of such payments? [12 CFR 1026.10(b)(2)(ii)]			
21. If a creditor specifies, on or with the periodic statement, requirements for the consumer to follow in making payments, but accepts a payment that does not conform to the requirements, is the payment credited within five days of receipt? [12 CFR 1026.10(b)(4)]			
22. If a creditor fails to credit a payment as required and imposes a finance or other charge, does the creditor credit the charge(s) to the consumer's account during the next billing cycle? [12 CFR 1026.10(c)]			
23. If (due to a weekend or holiday, for example) a creditor does not receive or accept payments by mail on the due date for payments, does the creditor treat as timely a payment received on the next business day? [12 CFR 1026.10(d)(1)]			
24. In connection with a HELOC secured by a consumer's dwelling, does the loan servicer provide an accurate statement of the total outstanding balance that would be required to satisfy the obligation in full as of a specific date within a reasonable time after receiving the request? [12 CFR 1026.36(c)(3)] **Note**: Under most circumstances, a reasonable time is no more than 7 business days after receipt of a written request. Exceptions apply if the loan is in bankruptcy			

Worksheet 12: Home Equity Line of Credit File Review			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
or foreclosure, the loan is a reverse or share appreciation mortgage, or the delay is due to a natural disaster or similar event, but the servicer must provide the payoff statement within a reasonable time. Also, the payoff statement requirement does not apply to a creditor or assignee that does not currently own the loan or its servicing rights. [12 CFR 1026.36(c)(3)]			
25. If the account's credit balance is in excess of $1, does the bank credit the amount to the consumer's account and either refund any part of the remaining credit balance within seven business days from receiving a written request from the consumer; or if no written request is received and the credit remains for more than six months, make a good faith effort to refund the amount of the credit to the consumer by cash, check, money order, or credit to a deposit account of the consumer? [12 CFR 1026.11(a)]			
26. Did the creditor not terminate an account before its expiration date solely because the consumer did not incur a finance charge? [12 CFR 1026.11(b)(1)]			
27. Unless subject to the exceptions at 12 CFR 1026.39(c), for consumer credit transactions secured by the consumer's principal dwelling that were acquired by, or otherwise sold, transferred, or assigned to the creditor who is the new legal owner of the debt (covered person), did the covered person provide a written disclosure notice to the borrower within 30 calendar days of the transaction that includes the following: a. An identification of the loan that was sold, assigned, or otherwise transferred? [12 CFR 1026.39(d)] b. Name, address, and telephone number of the covered person? [12 CFR 1026.39(d)(1)] c. If there are multiple covered persons, has contact information been provided for each of them, unless one of them has been authorized to receive the consumer's notice of the right to rescind and resolve issues concerning the consumer's payments on the loan? [12 CFR 1026.39(d)(1)(i), (ii)] d. Date of transfer, which may, at the covered person's option, be either the date of acquisition recognized in the books and records of the acquiring party, or the date of transfer recognized in the books and records of the transferring party? [12 CFR 1026.39(d)(2)] e. Name, address, and telephone number of an agent or party authorized to receive notice of the right to rescind and resolve issues concerning the consumer's payments on the loan, unless the consumer can use the information provided under (b) for this purpose? [12 CFR 1026.39(d)(3)] f. The location where the transfer of ownership of the debt to the covered person is or may be recorded? (**Note:** If the transfer of ownership has not been recorded in public records at the time the disclosure is provided, the covered person complies with this paragraph by stating this fact.) [12 CFR 1026.39(d)(4)] g. At the option of the covered person, any other information regarding the transaction? [12 CFR 1026.39(e)] **Note:** If more than one consumer is liable on the obligation, the covered person may mail or deliver the disclosure notice to any consumer who is primarily liable. [12 CFR 1026.39(b)(3)]			
28. Is the mortgage transfer disclosure notice provided clearly and conspicuously in writing, in a form that the consumer may keep? [12 CFR 1026.39(b)(1)] **Note:** This disclosure notice may be combined with the RESPA servicing transfer notice [Commentary 12 CFR 1026.39(b)(1)-1]; the disclosure notice may be			

Worksheet 12: Home Equity Line of Credit File Review			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
provided to the consumer in electronic form, subject to compliance with consumer consent and other applicable provisions of the E-Sign Act. [12 CFR 1026.39(b)(1)]			
29. If a consumer credit transaction secured by the principal dwelling of a consumer is acquired by a covered person and subsequently sold, assigned, or otherwise transferred to another covered person and a single disclosure notice is provided on behalf of both covered persons, did the disclosure notice satisfy the timing (12 CFR 1026.39(b)) and content (12 CFR 1026.39(d)) requirements applicable to each covered person? [12 CFR 1026.39(b)(4)]			
30. If an acquisition involves multiple covered persons who jointly acquire the consumer credit transaction secured by the principal dwelling of a consumer, was a single disclosure notice provided on behalf of all covered persons? [12 CFR 1026.39(b)(5)] **Note:** If an acquisition involves multiple covered persons who each acquire a partial interest in the loan pursuant to separate and unrelated agreements, each covered person has a duty to ensure that disclosures related to its acquisition are accurate and provided in a timely manner unless an exception in 12 CFR 1026.39(c) applies. The parties may, but are not required to, provide a single notice that satisfies the timing and content requirements applicable to each covered person. [Commentary 12 CFR 1026.39(b)(5)-2]			
31. In connection with any consumer credit transaction secured by the consumer's principal dwelling, did the covered person refrain from attempting to directly or indirectly cause the value assigned to the consumer's principal dwelling to be based on any factor other than the independent judgment of a person that prepares valuations, including by any of the following actions: [12 CFR 1026.42(c)] a. Refraining from seeking to influence a person who prepares a valuation to report a minimum or maximum value for the consumer's principal dwelling? b. Refraining from withholding or threatening to withhold timely payment to a person who prepares a valuation or performs valuation management functions because the person does not value the consumer's principal dwelling at or above a certain amount? c. Refraining from implying to a person who prepares valuations that current or future retention of the person depends on the amount at which the person estimates the value of the consumer's principal dwelling? d. Refraining from excluding a person who prepares a valuation from consideration for future engagement because the person reports a value for the consumer's principal dwelling that does not meet or exceed a predetermined threshold? e. Refraining from conditioning the compensation paid to a person who prepares a valuation on consummation of the covered transaction?			
32. Does the person preparing the valuation refrain from materially misrepresenting the value of the consumer's principal dwelling? [12 CFR 1026.42(c)(2)(i)] **Note:** A misrepresentation is material if it is likely to significantly affect the value assigned to the consumer's principal dwelling. A bona fide error shall not be a misrepresentation.			
33. Did the person preparing the valuation refrain from falsifying the valuation or did other covered persons refrain from materially altering the valuation? [12 CFR 1026.42(c)(2)(ii)] **Note:** An alteration is material if it is likely to significantly affect the value assigned to the consumer's principal dwelling.			

Worksheet 12: Home Equity Line of Credit File Review			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
34. Did the covered person refrain from inducing a person to materially misrepresent or falsify the value of a consumer's principal dwelling? [12 CFR 1026.42(c)(2)(iii)]			
35. To the extent applicable, did the person who prepared the valuations or performed the valuation management functions for a covered transaction refrain from having a direct or indirect interest, financial or otherwise, in the property or transaction for which the valuation is or will be performed? [12 CFR 1026.42(d)(1)(i)] **Note:** No person violates 12 CFR 1026.42(d)(1)(i) solely because that person is an employee or affiliate of the creditor, or provides a settlement service in addition to preparing valuations or performing valuation management functions, or based solely on the fact that the person's affiliate performs another settlement service. There is a safe harbor based on the asset size of the creditor. If the conditions of the safe harbors are not met, whether 12 CFR 1026.42(d)(1)(i) is violated by the above persons or entities depends on all of the facts and circumstances. [Commentary 12 CFR 1026.42(d)(2)-1, (d)(3)-1, and (d)(4)(i)-1]			
36. For any covered transaction in which the creditor had assets of more than $250 million as of December 31 for both of the past two calendar years, a person subject to 12 CFR 1026.42(d)(1)(i) who is employed by or affiliated with the creditor does not have a conflict of interest based on the person's employment or affiliate relationship with the creditor if the person meets all of the following conditions for the safe harbor: [12 CFR 1026.42(d)(2)] a. The compensation of the person preparing a valuation or performing valuation management functions is not based on the value arrived at in any valuation. b. The person preparing a valuation or performing valuation management functions reports to a person who is not part of the creditor's loan production function, as defined in 12 CFR 1026.42(d)(5)(i), and whose compensation is not based on the closing of the transaction to which the valuation relates. c. No employee, officer, or director in the creditor's loan production function, as defined in 12 CFR 1026.42 (d)(5)(i), is directly or indirectly involved in selecting, retaining, recommending, or influencing the selection of the person to prepare a valuation or perform valuation management functions, or to be included in or excluded from a list of approved persons who prepare valuations or perform valuation management functions.			
37. For any covered transaction in which the creditor had assets of less than $250 million as of December 31 for both of the past two calendar years, a person subject to 12 CFR 1026.42(d)(1)(i) who is employed by or affiliated with the creditor does not have a conflict of interest based on the person's employment or affiliate relationship with the creditor if the person meets all of the following conditions for the safe harbor: [12 CFR 1026.42(d)(3)] a. The compensation of the person preparing a valuation or performing valuation management functions is not based the value arrived at in any valuation. b. The creditor requires that any employee, officer, or director of the creditor who orders, performs, or reviews a valuation for a covered transaction abstain from participating in any decision to approve, not approve, or set the terms of that transaction.			
38. Does the person who prepares a valuation or performs valuation management functions in addition to performing another settlement service for the transaction, or whose affiliate performs another settlement service for the transaction, avoid a conflict of interest as a result of the person or the person's affiliate performing another settlement service for the transaction			

Worksheet 12: Home Equity Line of Credit File Review			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
a. for creditors with assets of more than $250 million as of December 31 for both of the past two calendar years, by meeting the conditions at step 36 a, b, and c? [12 CFR 1026.42(d)(4)] b. for creditors with assets of $250 million or less as of December 31 for both of the past two calendar years, by meeting the conditions at step 37 a and b? [12 CFR 1026.42(d)(4)]			
39. If the creditor did know at or before consummation of a violation of 12 CFR 1026.42(c) or (d) in connection with a valuation, did the creditor refrain from extending credit based on the valuation, unless the creditor documented that it acted with reasonable diligence to determine that the valuation did not materially misstate or misrepresent the value of the consumer's principal dwelling? [12 CFR 1026.42(e)] **Note:** For purposes of 12 CFR 1026.42(e), a valuation materially misstates or misrepresents the value of the consumer's principal dwelling if the valuation contains a misstatement or misrepresentation that affects the credit decision or the terms on which credit is extended.			
40. Did the creditor and its agents compensate a fee appraiser for performing appraisal services at a rate that is customary and reasonable for comparable appraisal services performed in the geographic market of the property being appraised? [12 CFR 1026.42(f)(1)] **Note:** For purposes of 12 CFR 1026.42(f) “agents” of the creditor do not include any fee appraiser as defined in section 12 CFR 1026.42(f)(4)(i). (In most cases the “agent” will be an appraisal management company to which the creditor has outsourced the valuation function.)			
41. If the creditor reasonably believes an appraiser has not complied with the Uniform Standards of Professional Appraisal Practice or ethical or professional requirements for appraisers under applicable state or federal statutes or regulations, did the creditor refer the matter within a reasonable period of time to the appropriate state agency if the failure to comply is material? [12 CFR 1026.42(g)(1)] **Note:** For purposes of 12 CFR 1026.42(g), a failure to comply is material if it is likely to significantly affect the value assigned to the consumer's principal dwelling.			
42. Has the creditor retained evidence of compliance with Regulation Z for two years after the date disclosures were required to be made or action was required to be taken? [12 CFR 1026.25(a)]			

Worksheet 13: Special Rules for Certain Home Mortgage Transactions File Review

(High-Cost Mortgages, Reverse Mortgages, Higher-Priced Mortgage Loans, and Credit Secured by Consumer's Dwelling)

Use this worksheet when reviewing high-cost mortgages subject to HOEPA, reverse mortgages, higher-priced mortgage loans, and certain credit secured by a consumer's dwelling, including the ability to repay requirements. To complete, review loan files and place a check in each applicable cell. Use this worksheet to review audit work papers, evaluate bank policies, and perform expanded procedures and training, as appropriate. Only complete worksheet sections that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the work papers.

Quick-Find Key	
Topics	**Questions**
High-cost mortgages (HOEPA)	7–13
Reverse mortgages	14–15
Higher-priced mortgage loans	16–22
Loan originators	23–32
Prohibited acts or practices	33–39
Mortgage transfer disclosure	40–43
Periodic statement	44–45
Valuation independence	46–56
Ability to repay, refinancing nonstandard mortgage, prepayment penalty restrictions, evasion introduction	57–66
Qualified mortgages	• Worksheet 13A: General Definition Qualified Mortgages • Worksheet 13B: Temporary Category Qualified Mortgages • Worksheet 13C: Small Creditor Portfolio Qualified Mortgages • Worksheet 13D: Balloon-Payment Qualified Mortgages Made by Certain Small Creditors • Worksheet 13E: Temporary Balloon-Payment Qualified Mortgages Made by Small Creditors

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. When performing expanded procedures, a "no" answer indicates a violation and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 13: Special Rules for Certain Home Mortgage Transactions File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
1. Are the disclosures required under 12 CFR 1026, subpart E ("Special Rules for Certain Home Mortgage Transactions") provided to consumers in addition to, not in lieu of, the disclosures contained in other subparts of Regulation Z? [12 CFR 1026.31(a)]			
2. Are disclosures clear, conspicuous, in writing, and in a form the consumer may keep? [12 CFR 1026.31(b)] **Note:** The disclosures required by subpart E (12 CFR 1026.31–39) may be provided to the consumer in electronic form, subject to compliance with consumer consent and other applicable provisions of the E-Sign Act. [12 CFR 1026.31(b)]			
3. Do the disclosures reflect the terms of the legal obligation between the parties? [12 CFR 1026.31(d)]			
4. If the transaction involves more than one creditor, did only one creditor provide the disclosures? And where the obligation involves multiple consumers, were the disclosures provided to the consumer who is primarily liable on the obligation? And for rescindable transactions, were the disclosures provided to each consumer who has the right to rescind? [12 CFR 1026.31(e)]			
5. For purposes of 12 CFR 1026.32 (requirements for high-cost mortgages), is the APR accurately calculated and disclosed in accordance with the requirements and within the tolerances allowed in 12 CFR 1026.22 for closed-end credit or 12 CFR 1026.6(a) for open-end credit? [12 CFR 1026.31(g)]			
6. Except as provided below for the ability-to-repay rule (12 CFR 1026.43) and loan originator provisions (12 CFR 1026.36), has the creditor retained evidence of compliance with Regulation Z for two years after the date disclosures were required to be made or action was required to be taken? [12 CFR 1026.25(a), (c)(2),(c)(3)]			
High-Cost Mortgages Under HOEPA [12 CFR 1026.32]			
7. Are disclosures provided at least three business days before consummation or account opening? [12 CFR 1026.31(c)(1)] **Note:** For purposes of 12 CFR 1026.31(c), the term "business day" means all calendar days except Sundays and legal holidays. [12 CFR 1026.2(a)(6)]			
8. If the terms change before consummation so that the disclosures are inaccurate, are new disclosures provided at least three business days before consummation? [12 CFR 1026.31(c)(1)(i)]			
9. Does any waiver of the three business day waiting period comply with 12 CFR 1026.31(c)(1)(iii) and bear the signature of all consumers entitled to the waiting period? [12 CFR 1026.31(c)(1)(iii)]			
10. Does the bank disclose the following in a conspicuous type size: a. The required notice? [12 CFR 1026.32(c)(1)] b. APR? [12 CFR 1026.32(c)(2)] c. For closed-end credit, the regular payment and any balloon payment or, for open end credit, examples of first minimum periodic payments, balance outstanding, any balloon payment, and required statements? [12 CFR 1026.32(c)(3)] d. Required information regarding the variable rate, if applicable? [12 CFR 1026.32(c)(4)]			

Worksheet 13: Special Rules for Certain Home Mortgage Transactions File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
e. Amount borrowed on the face of the note or the credit limit for an open-end plan? [12 CFR 1026.32(c)(5)]			
11. Are these terms absent from the mortgage transaction: a. Balloon payment, unless: the payment schedule is adjusted to consumer's seasonal or adjusted income, a bridge loan of 12 months or less, a balloon payment qualified mortgage under 12 CFR 1026.43(e)(6) or (f), or if open-end plan, the payment adjustment results from a distinct repayment period that does not permit draws? [12 CFR 1026.32(d)(1)] b. Negative amortization? [12 CFR 1026.32(d)(2)] c. Advance payments of more than two periodic payments? [12 CFR 1026.32(d)(3)] d. Increased interest rate after default? [12 CFR 1026.32(d)(4)] e. Refund calculation by method less favorable than the actuarial method for rebates of interest arising from loan acceleration due to default? [12 CFR 1026.32(d)(5)] f. Prepayment penalties, as defined in 12 CFR 1026.32(b)(6)? [12 CFR 1026.32(d)(6)] **Note:** Prepayment penalties do not include recovered conditionally waived bona fide third-party charges before the 36th month from consummation or account opening or, if an FHA insured loan, interest charged that is consistent with the monthly interest accrual amortization method. g. Due-on-demand clause (unless an exception applies)? [12 CFR 1026.32(d)(8)]			
12. Does the bank a. pay a contractor under a home improvement contract from mortgage proceeds only as allowed in 12 CFR 1026.34(a)(1)? b. sell or assign a mortgage only when furnishing the required notice to assignee? [12 CFR 1026.34(a)(2)] c. refinance a high-cost mortgage into another high-cost mortgage only after one year, unless in the consumer's interest? [12 CFR 1026.34(a)(3)] d. only make an open-end high-cost mortgage (except a temporary or bridge loan with a term of 12 months or less) if the consumer has the ability to repay based on the consumer's current income, reasonably expected income, employment, assets other than the collateral, current obligations, and mortgage-related obligations secured by the same dwelling. [12 CFR 1026.34(a)(4)] e. determine the consumer's repayment ability for loans described in step 12.d above by verifying income or assets relied upon and current obligations? [12 CFR 1026.34(a)(4)(ii)] f. receive written certification that the consumer received counseling from a HUD-approved counselor (or a state housing finance authority, if permitted by HUD) in compliance with 12 CFR 1026.34(a)(5) before extending credit? [12 CFR 1026.34(a)(5)] g. refrain from recommending or encouraging a consumer to default on existing debt in order to refinance any portion into a high-cost mortgage? [12 CFR 1026.34(a)(6)]			

Worksheet 13: Special Rules for Certain Home Mortgage Transactions File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
h. refrain from charging a fee to modify, renew, extend, or defer payment due on a high-cost mortgage? [12 CFR 1026.34(a)(7)] i. charge a late payment fee, only if permitted under the loan agreement, when a payment is not received by the end of the 15-day period beginning on payment due date (or, in the case when interest on each installment is to be paid in advance, the end of the 30-day period beginning on the payment due date), and only if the amount of the fee does not exceed 4 percent of the amount past due? [12 CFR 1026.34(a)(8)(i)-(iii)] **Note:** Bank cannot pyramid by charging another late fee if delinquency consists only of prior late payment fee. j. apply a separate late payment fee to payments outstanding until the default is cured, only if the agreement permits the bank to apply payments to any past due balance first? [12 CFR 1026.34(a)(8)(iv)] k. provide payoff statements within 5 business days without charge (unless charging for the fifth or more payoff statement in a calendar year) and, if charging a fee for delivering the statement by fax or courier, charge the fee only after disclosing free delivery methods and at a cost comparable to similar services provided for non-high-cost mortgages? [12 CFR 1026.34(a)(9)] l. extend a high-cost mortgage without financing charges that are points and fees as defined in 12 CFR 1026.32(b)(1) and (2)? [12 CFR 1026.34(a)(10)] **Note:** Credit insurance premiums or debt cancellation/suspension fees that are points and fees under 12 CFR 1026.32(b)(1)(iv) or (2)(iv) are not considered financed when they are calculated and paid in full on a monthly basis.			
13. Has the creditor refrained from structuring a loan that is otherwise a high-cost mortgage to evade the Regulation Z requirements? [12 CFR 1026.34(b)]			
Reverse Mortgages (Open- and Closed-End) [12 CFR 1026.33]			
14. Are disclosures provided at least three business days before a. consummation for closed-end loans? [12 CFR 1026.31(c)(2)(i)] b. first transaction under an open-end credit plan? [12 CFR 1026.31(c)(2)(ii)]			
15. Are disclosures substantially similar to the appendix K model form and include a. the required notice? [12 CFR 1026.33(b)(1)] b. total annual loan cost rates? [12 CFR 1026.33(b), (c)(1)-(6)] c. itemization of pertinent information? [12 CFR 1026.33(b)(3)] d. explanation of table? [12 CFR 1026.33(b)(4)]			
Higher-Priced Mortgage Loan (HPML) (12 CFR 34, Subpart G, and 12 CFR 1026.35)			
Introduction: This section covers the escrow and appraisal requirements for HPMLs. If the bank is a small creditor that operates predominately in rural or underserved areas, as defined in 12 CFR 1026.35(b)(2)(iii), proceed to question 18. **Note:** With regard to the escrow requirement, if an exempt bank (small creditor) **extends** an HPML subject to a forward commitment to a creditor or investor that does not qualify for the small creditor exemption, the bank must establish an escrow account that complies with the rule and neither the bank nor its affiliates can service the loan on or beyond the **second periodic payment** under the terms of the loan.			

Worksheet 13: Special Rules for Certain Home Mortgage Transactions File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
16. For an HPML application received on or after June 1, 2013, has an escrow account been established before consummation for property taxes and premiums for mortgage-related insurance if the loan is secured by a first lien on a *principal* dwelling, unless the loan is secured by shares in a cooperative or condominium unit with a master insurance policy; the loan finances initial construction or a bridge loan of less than one year; or, the loan is a reverse mortgage? [12 CFR 1026.35(b)(1)–(2)] **Note:** The escrow requirement for "jumbo" loans has a different rate threshold. Also, the escrow requirement applies to a high-cost mortgage (HOEPA) loan that meets the definition of a higher-priced mortgage loan.			
17. Did the bank cancel the escrow account only upon the earlier of (a) the termination of the underlying debt or, (b) receipt of a consumer's request to cancel the account no earlier than five years after consummation provided the unpaid balance on the loan is less than 80 percent of the original property value and the consumer is not delinquent or in default on the loan? [12 CFR 1026.35(b)(3)]			
18. For an application (first or subordinate lien) received on or after January 18, 2014, did the bank either provide the HPML appraisal disclosure to applicant no later than three business days after receiving the application (or three business days after an HPML determination) or comply with the disclosure requirement in 12 CFR 1002.14(a)(2)? [12 CFR 1026.35(c)(5)] **Note:** The following are exempt from the HPML appraisal requirement: qualified mortgages (defined in 15 USC 1639c and 12 CFR 1026.43); loans of $25,000 or less (adjusted annually); loans secured by a mobile home, boat, trailer, or a manufactured home loan that is subject to certain conditions; bridge loan of 12 months or less; initial construction loan; reverse mortgage; or a refinancing (under certain conditions). [12 CFR 1026.35(c)(2)]			
19. Before consummation, did the bank obtain a written appraisal of the property that a certified or licensed appraiser performed after conducting a physical interior inspection of the property, if the loan is not exempt? [12 CFR 1026.35(c)(3)]			
20. Did the bank exercise reasonable diligence (i.e., used written source documents) to determine if an additional appraisal is required, if the loan is not exempt? [12 CFR 1026.35(c)(4)(i), (c)(4)(vi), and see appendix O] **Note:** HPMLs exempt from the additional appraisal requirement meet the following conditions: (a) the seller is a government agency; a person who acquired title through foreclosure, deed-in-lieu of foreclosure, or similar process; a non-profit entity that is permitted to acquire title through a government program to resell single-family properties obtained via foreclosure or other similar procedures; a person who acquired title through inheritance or partition of joint assets; an employer or relocation agency in connection with employee relocation; or a servicemember in connection with a deployment or permanent change of duty station or, (b) the property is located in a designated federal disaster area and FIRREA title XI requirements have been waived; or located in a rural county as defined by the CFPB. [12 CFR 1026.35(c)(4)(vii)]			
21. If the bank cannot demonstrate that the additional appraisal requirement did not apply or otherwise determine that the consumer applied for an HPML to acquire a flipped property, a. did the bank obtain an additional written appraisal from a different certified or licensed appraiser who conducted a physical interior inspection of the property? [12 CFR 1026.35(c)(4)]			

Worksheet 13: Special Rules for Certain Home Mortgage Transactions File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
Note: The property to be acquired has been flipped if either the seller acquired the property in 90 or fewer days before the consumer's agreement to acquire and the price exceeds the amount the seller paid by more than 10 percent, or the seller acquired the property 91 to 180 days before the date of the consumer's agreement and the price exceeds the seller's acquisition price by 20 percent. [12 CFR 1026.35(c)(4)(a), (c)(4)(b)] b. did one of the two appraisals include an analysis of the difference from seller's acquisition price and consumer's price to acquire the property, the changes in market conditions and any improvements to property between seller's acquisition date and the date of consumer's agreement to acquire the property? [12 CFR 1026.35(c)(4)(iv), (c)(4)(vi)(B)] **Note:** If after exercising reasonable diligence the creditor could not determine whether the property was flipped and therefore had to obtain two appraisals, the factors above should be analyzed only to the extent the necessary information can be determined. c. did the bank charge for no more than one of the appraisals required to be performed? [12 CFR 1026.35(c)(4)(v)]			
22. Did the bank provide the consumer with a free copy of any written HPML appraisal no later than three business days before consummation or, if not consummated, no later than 30 days after it determined the loan would not be consummated? [12 CFR 1026.35(c)(6)] **Note:** The bank may provide a copy of the appraisal(s) to the consumer in electronic form, subject to compliance with consumer consent and other applicable provisions of the E-Sign Act. [12 CFR 1026.35(c)(6)(iii)]			
Loan Originator Provisions and Prohibition on Steering (12 CFR 1026.36(d), (e), (f), and (g))			
23. In connection with a closed-end consumer credit transaction secured by **a dwelling** (except a time-share plan), did the loan originator (LO) only receive compensation (directly or indirectly) that was **other than** an amount based on a term of a transaction or proxy for a term, the terms of multiple transactions by an individual loan originator, or the terms of multiple transactions by multiple individual loan originators (unless the compensation was otherwise exempt)? [12 CFR 1026.36(d)(1)(i)] **Note:** Compensation may be based on mortgage-related profits under a defined contribution plan per Internal Revenue Code (IRC) section 414(i) that is a designated tax-advantage plan, provided the employer's contribution is not based on the terms of that individual LO's transactions, as well as a defined benefit plan under IRC section 414(j) that is a designated tax-advantage plan. An individual LO may also receive compensation under a non-deferred profits-based compensation plan if the compensation is not (directly or indirectly) based on the terms of that individual LO's transactions and either (a) the compensation paid does not, in the aggregate, exceed 10 percent of the LO's total compensation corresponding to the time period for which the compensation under the plan is paid, or (b) the LO was an LO for 10 or fewer transactions during the 12-month period before the date of the compensation determination. [12 CFR 1026.36(d)(1)(iii), (d)(1)(iv)]			
24. With the exception of a loan originator organization paying compensation it received directly from a consumer to a loan originator (LO), if an individual LO receives compensation directly from a consumer in a closed-end consumer credit transaction secured by **a dwelling** (excluding a time-share plan),			

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Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
a. did the LO **not** receive compensation, directly or indirectly, from any person other than the consumer (unless otherwise designated by the consumer per agreement with a person other than the creditor or its affiliates) in connection with the same transaction? [12 CFR 1026.36(d)(2)(i)(A)(1), (d)(2)(i)(B)] b. did any person who knows or has reason to know of the consumer-paid compensation to the LO (other than the consumer) refrain from paying any compensation to an LO, directly or indirectly, in connection with the transaction? [12 CFR 1026.36(d)(2)(i)(A)(2)]			
25. In connection with a closed-end consumer credit transaction secured by **a dwelling** (excluding a time-share plan), did the loan originator refrain from directing or steering a consumer to consummate a transaction even though the originator could have received greater compensation from the creditor in that transaction than in other transactions the originator offered or could have offered to the consumer, unless the consummated transaction was in the consumer's interest? [12 CFR 1026.36(e)(1)]			
26. In connection with a consumer credit transaction secured by **a dwelling**, if the originator relied on the safe harbor to facilitate compliance with the prohibition on steering at 12 CFR 1026.36(e)(1), a. did the loan originator obtain loan options from a significant number of the creditors with which it regularly does business for each type of transaction in which the consumer expressed an interest? [12 CFR 1026.36(e)(3)(i)] b. was the consumer presented with loan options that meet all of the following conditions for each type of transaction in which the consumer expressed an interest: i. The loan with the lowest interest rate? [12 CFR 1026.36(e)(3)(i)(A)] ii. The loan with the lowest interest rate without negative amortization, a prepayment penalty, interest-only payments, a balloon payment in the first seven years of the life of the loan, a demand feature, shared equity, or shared appreciation; or, in the case of a reverse mortgage, a loan without a prepayment penalty, or shared equity or shared appreciation? [12 CFR 1026.36(e)(3)(i)(B)] iii. The loan with the lowest total dollar amount for origination points or fees and discount points (or, if two or more loans have the same total dollar amount of discount points, origination points or origination fees, the loan with the lowest interest rate that has the lowest total dollar amount of discount points, origination points, or origination fees)? [12 CFR 1026.36(e)(3)(i)(C)] c. does the loan originator have a good faith belief that the options (presented to the consumer that are set forth, above) are loans for which the consumer likely qualifies? [12 CFR 1026.36(e)(3)(ii)] **Note:** For each type of transaction, if the originator presents to the consumer more than three loans, the originator must highlight the loans that satisfy steps 26 a, b, and c above. [12 CFR 1026.36(e)(3)(iii)] The loan originator, however, may present fewer than three loans so long as the loans presented satisfy the criteria of 12 CFR 1026.36(e)(2) and (e)(3)(i) and otherwise satisfy the requirements of 12 CFR 1026.36(e)(3)(i). [12 CFR 1026.36(e)(4)]			
27. Has the bank taken appropriate steps reasonably designed to ensure compliance with the loan originator (LO) provisions in 12 CFR 1026.36(f)(3) by			

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Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
a. establishing a process for identifying which employees are subject to Regulation Z background standards (individual LO employees hired on or after January 1, 2014, or hired before January 1, 2014, date but for whom there were no applicable statutory or regulatory background standards in effect, or individual LO employees that likely do not meet the standards regardless of when they were hired)? [12 CFR 1026.36(f)(3)(i)(A)] b. establishing procedures for obtaining criminal background checks through the Nationwide Mortgage Licensing System and Registry (NMLSR) or, in the case of an individual LO who is not a registered LO under the NMLSR, a criminal background check from a law enforcement agency or commercial service? [12 CFR 1026.36(f)(3)(i)(A)] c. establishing procedures for obtaining credit reports from a consumer reporting agency? [12 CFR 1026.36(f)(3)(i)(B)] d. establishing procedures for obtaining information from the NMLSR about any administrative, civil, or criminal findings by any government jurisdiction or, in the case of an individual loan originator who is not a registered LO under the NMLSR, such information from the individual LO? [12 CFR 1026.36(f)(3)(i)(C)] e. based on the information obtained above and any other information reasonably available to the bank, made determinations that each individual LO (1) has not been convicted of, or pleaded guilty or nolo contendere to, a felony in a domestic or military court during the preceding seven-year period or, in the case of a felony involving an act of fraud, dishonesty, a breach of trust, or money laundering, at any time; and (2) has demonstrated financial responsibility, character, and general fitness such as to warrant a determination that the individual LO will operate honestly, fairly, and efficiently before such individual acts as an LO? [12 CFR 1026.36(f)(3)(ii)]			
28. Does the bank provide periodic training covering federal and state law requirements that apply to the individual loan originator's loan origination activities? [12 CFR 1026.36(f)(3)(iii)]			
29. If the bank is engaging in loan originator activities for a closed-end consumer credit transaction secured by a dwelling (except time-share plans), does it include on the credit application, note or loan contract, and security instrument, its name and NMLSR ID, and the name of the individual loan originator (as the name appears in the NMLSR) with primary responsibility for the origination, if the NMLSR has provided them an NMLSR ID, whenever each such loan document is provided to a consumer or presented to a consumer for signature, as applicable? [12 CFR 1026.36(g)]			
30. Does the bank maintain written policies and procedures reasonably designed to ensure and monitor compliance, including its subsidiaries' and subsidiaries' employees, with the requirements of paragraphs (d), (e), (f), and (g) of 12 CFR 1026.36? [12 CFR 1026.36(j)]			
31. For transactions subject to 12 CFR 1026.36, has the creditor retained records sufficient to evidence all compensation it paid to a loan originator and the compensation agreement that governs those payments for three years after the date of payment? [12 CFR 1026.25(c)(2)(i)]			
32. For transactions subject to 12 CFR 1026.36, has the loan originator organization retained records sufficient to evidence all compensation it received from a creditor, a consumer, or another person; all compensation it paid to any individual loan originator; and the compensation agreement that governs each such receipt or			

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Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
payment, for three years after the date of each such receipt or payment? [12 CFR 1026.25(c)(2)(ii)]			
Prohibited Acts or Practices: Prohibitions Against Certain Servicing Practices, Mandatory Arbitration, and Financing Credit Insurance; Homeownership Counseling for Certain Negative Amortization Loans (12 CFR 1026.36(c),(h), (i), and (k))			
33. In connection with a closed-end consumer credit transaction secured by a consumer's **principal** dwelling, does the loan servicer credit a periodic payment (covers principal, interest, and applicable escrow) to the consumer's loan account as of the date of receipt, except when a delay in crediting does not result in any charge to the consumer or reporting of negative information to a consumer reporting agency? [12 CFR 1026.36(c)(1)(i)] **Note**: The servicer shall credit the payment as of five days after receipt when it accepts a payment that does not conform with requirements that the servicer specified in writing for making payments. [12 CFR 1026.36(c)(1)(iii)]			
34. If the servicer retains a partial payment (i.e., any payment less than a periodic payment) in a suspense or unapplied funds account, does the servicer a. disclose to the consumer the total amount of funds held in the account on the periodic statement as required by 12 CFR 1026.41(d)(3), if a periodic statement is required? [12 CFR 1026.36(c)(1)(ii)(A)] b. treat the funds as a periodic payment as received under 12 CFR 1026.36(c)(1)(i) once the consumer has accumulated sufficient funds to cover a periodic payment in the suspense or unapplied funds account? [12 CFR 1026.36(c)(1)(ii)(B)]			
35. In connection with a closed-end consumer credit transaction secured by a consumer's **principal** dwelling, has the loan servicer refrained from imposing any late fee or delinquency charge in connection with a payment, when the only delinquency was attributable to late fees or delinquency charges assessed on an earlier payment, and the payment is otherwise a full payment for the applicable period and is paid on its due date or within any applicable grace or courtesy period? [12 CFR 1026.36(c)(2)]			
36. In connection with an open- or closed-end consumer credit transaction secured by a consumer's dwelling, does the loan servicer send to the consumer an accurate statement of the total outstanding balance that would be required to satisfy the obligation in full as of a specific date within a reasonable time after receiving the consumer's written request? [12 CFR 1026.36(c)(3)] **Note**: Under most circumstances, a reasonable time is no more than seven business days after receipt of a written request. Exceptions apply if the loan is in bankruptcy or foreclosure, the loan is a reverse or share appreciation mortgage, or the delay is due to a natural disaster or similar circumstances, but the servicer must still provide the payoff statement within a reasonable time. Also, the payoff statement requirement does not apply to a creditor or assignee that does not currently own the loan or its servicing rights. [12 CFR 1026.36(c)(3)]			
37. Is the contract or other agreement for the consumer credit transaction secured by a dwelling (including a home equity line of credit secured by the consumer's principal dwelling and excluding all time-share plans) devoid of (a) any terms that would require arbitration or any other nonjudicial procedure to resolve a controversy or settle claims arising from the loan transaction or (b) terms that may be applied or interpreted to bar the consumer from bringing a claim in court for a violation of any federal law? [12 CFR 1026.36(h)]			

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Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
38. If there are premiums or fees for credit insurance in connection with a consumer credit transaction secured by a dwelling (including a HELOC secured by the consumer's principal dwelling and excluding all time-share plans), are the premiums or fees **not** financed, either directly or indirectly, by the creditor? [12 CFR 1026.36(i)] **Note:** The prohibition does not apply if the credit insurance premiums or fees are calculated and paid in full on a monthly basis. [12 CFR 1026.36(i)]			
39. If a first-time borrower for a closed-end credit transaction secured by a dwelling (other than a reverse mortgage or time-share plan) applies for a loan that may result in negative amortization, does the creditor receive documentation that the consumer obtained homeownership counseling from a HUD-certified or -approved counselor before extending the credit, provided the creditor did not steer or otherwise direct the consumer to choose a particular counselor? [12 CFR 1026.36(k)(1), (k)(3)] **Note:** A "first-time borrower" means a consumer who has not previously received a closed-end credit transaction or open-end credit plan secured by a dwelling. [12 CFR 1026.36(k)(2)(i)]			
Mortgage Transfer Disclosure (12 CFR 1026.39)			
40. Unless subject to the exceptions at 12 CFR 1026.39(c), for consumer credit transactions secured by the consumer's **principal** dwelling that were acquired by, or otherwise sold, transferred, or assigned to the creditor who is the new legal owner of the debt (covered person), did the covered person provide a written disclosure notice to the borrower within 30 calendar days of the transaction that includes the following: a. An identification of the loan that was sold, assigned, or otherwise transferred? [12 CFR 1026.39(d)] b. Name, address, and telephone number of the covered person? [12 CFR 1026.39(d)(1)] c. If a single disclosure is provided on behalf of multiple covered persons, has contact information been provided for each of them or, if one of them has been authorized to receive the consumer's notice of the right to rescind and resolve issues concerning the consumer's payments on the loan, for that covered person? [12 CFR 1026.39(d)(1)(i), (ii)] d. Date of transfer, which may, at the covered person's option, be either the date of acquisition recognized in the books and records of the acquiring party, or the date of transfer recognized in the books and records of the transferring party? [12 CFR 1026.39(d)(2) and 1026.39(b)(2)] e. Name, address, and telephone number of an agent or party authorized to receive notice of the right to rescind and resolve issues concerning the consumer's payments on the loan, unless the consumer can use the information provided under (b) for this purpose? [12 CFR 1026.39(d)(3)] f. The location where the transfer of ownership of the debt to the covered person is or may be recorded? (**Note:** If the transfer of ownership has not been recorded in public records at the time the disclosure is provided, the covered person complies with this paragraph by stating this fact.) [12 CFR 1026.39(d)(4)] g. At the option of the covered person, any other information regarding the transaction? [12 CFR 1026.39(e)]			

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Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
Note: If more than one consumer is liable on the obligation, the covered person may mail or deliver the disclosure notice to any consumer who is primarily liable. [12 CFR 1026.39(b)(3)]			
41. Is the disclosure notice required by 12 CFR 1026.39 provided clearly and conspicuously in writing, in a form that the consumer may keep? [12 CFR 1026.39(b)(1)] **Note:** The disclosure notice may be provided to the consumer in electronic form, subject to compliance with consumer consent and other applicable provisions of the E-Sign Act. [12 CFR 1026.39(b)(1)]			
42. If a consumer credit transaction secured by the **principal** dwelling of a consumer is acquired by a covered person and subsequently sold, assigned, or otherwise transferred to another covered person and a single disclosure notice is provided on behalf of both covered persons, did the disclosure notice satisfy the timing (12 CFR 1026.39(b)) and content (12 CFR 1026.39(d)) requirements applicable to each covered person? [12 CFR 1026.39(b)(4)]			
43. If an acquisition involves multiple covered persons who jointly acquire the consumer credit transaction secured by the **principal** dwelling of a consumer, was a single disclosure notice provided on behalf of all covered persons? [12 CFR 1026.39(b)(5)] **Note:** If an acquisition involves multiple covered persons who each acquire a partial interest in the loan pursuant to separate and unrelated agreements, each covered person has a duty to ensure that disclosures related to its acquisition are accurate and provided in a timely manner unless an exception in 12 CFR 1026.39(c) applies. The parties may, but are not required to, provide a single notice that satisfies the timing and content requirements applicable to each covered person. [Commentary 12 CFR 1026.39(b)(5)-2]			
Periodic Statements for Residential Mortgage Loans (12 CFR 1026.41)			
44. Provided an exception below does not apply, did the servicer (creditor, assignee, or servicer, as applicable) provide to the consumer a periodic statement for each billing cycle of a closed-end consumer credit transaction secured by a dwelling that a. the servicer delivered or placed in the mail within a reasonably prompt time after the payment due date or end of the courtesy period? [12 CFR 1026.41(b)] **Note:** If a loan has a billing cycle shorter than a period of 31 days (e.g., biweekly billing cycle), a periodic statement covering an entire month may be used. [12 CFR 1026.41(a)(2)] b. was made clearly and conspicuously in writing, or electronically as agreed by the consumer, and in a form the consumer could keep? [12 CFR 1026.41(c) and see sample forms in rule's appendix H-30] **Note:** The following are exempt from the periodic statement requirement: creditors or assignees that do not currently own the loan or the servicing rights; reverse mortgages; time-share plans; loans to consumers that are debtors in Title 11 bankruptcy; servicers that provide a coupon book to the consumer for a fixed-rate loan if the book includes amount due information required in 12 CFR 1026.41(d)(1) on every coupon, as well as the contact and account information required in (d)(6) and (d)(7), the delinquency information in (d)(8) for any billing cycle during which the consumer is more than 45 days delinquent, and the contact details to obtain information regarding the amount due and other information listed under (d)(2) through (d)(5); and servicers that meet the "small			

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Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
servicer" definition located in 12 CFR 1026.41(e)(4)(ii). [12 CFR 1026.41(a)(2),(e)]			
45. If a periodic statement is required, does it include a. the payment due date, late payment fee, and date when fee will be imposed, and the amount due for each payment option (which is shown more prominently than the other disclosures on the page), all of which are grouped together in close proximity and located at the top of the statement's first page? [12 CFR 1026.41(d)(1)] b. an explanation of the amount due that includes a breakdown of the monthly payment amount (principal, interest, escrow, and, if there are multiple payment options, a breakdown of each option and information regarding whether principal balance for each will increase, decrease, or stay the same), the sum of any fees since the last statement, and any payment past due, all of which are grouped together in close proximity on the statement's first page? [12 CFR 1026.41(d)(2)] c. a breakdown of past payments, which are grouped together in close proximity on the statement's first page, showing the amount, if any, applied to principal, interest, escrow, fees, and charges, and currently held in any suspense or unapplied funds account, for the total of all payments received since the last statement, as well as received since the beginning of the calendar year? [12 CFR 1026.41(d)(3)] d. a list of the transaction activity (any activity that causes a credit or debit to the amount due) that occurred since the last statement? [12 CFR 1026.41(d)(4)] **Note:** This list must include the date, a brief description, and the amount of each transaction activity. e. an explanation of what must be done for the funds of a partial payment that were placed in a suspense or unapplied funds account to be applied, which is either located on the statement's front page, a separate page enclosed with the statement, or in a separate letter? [12 CFR 1026.41(d)(5)] **Note:** A cross-reference in 12 CFR 1026.36(c)(1)(ii)(A) also requires servicers to make this partial payment disclosure for covered loans, if a periodic statement is required. f. a toll-free telephone number and, if applicable, an e-mail address, located on the statement's front page, that the consumer may use to obtain account information? [12 CFR 1026.41(d)(6)] g. account information that includes the following: i. The outstanding principal balance? [12 CFR 1026.41(d)(7)(i)] ii. The current interest rate in effect? [1026.41(d)(7)(ii)] iii. The date after which the interest rate may next change? [12 CFR 1026.41(d)(7)(iii)] iv. Any prepayment penalty, as defined in 12 CFR 1026.32(b)(6)(i), that may be charged? [12 CFR 1026.41(d)(7)(iv)] v. The Web site to access either CFPB's or HUD's homeownership counselors/organizations list and the HUD toll-free telephone number to access contact information for homeownership counselors/organizations? [12 CFR 1026.41(d)(7)(v)]			

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Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
h. if the consumer is more than 45 days delinquent, the following items grouped together in close proximity on the statement's first page, a separate page enclosed with the statement, or a separate letter: i. The date on which the consumer became delinquent? [12 CFR 1026.41(d)(8)(i)] ii. A notification of possible risks, such as foreclosure and expenses, if the delinquency is not cured? [12 CFR 1026.41(d)(8)(ii)] iii. An account history (for the shorter of the previous six months or period since the account was last current) showing the amount remaining past due from each billing cycle or, if fully paid, the date on which the payment was credited as fully paid? [12 CFR 1026.41(d)(8)(iii)] iv. A notice about any loss mitigation program agreed to by consumer? [12 CFR 1026.41(d)(8)(iv)] v. A notice of whether the servicer has made the first notice or filing required by applicable law for any judicial or nonjudicial foreclosure process, if applicable? [12 CFR 1026.41(d)(8)(v)] vi. The total payment amount needed to bring the account current? [12 CFR 1026.41(d)(8)(vi)] vii. A reference to the homeownership counselor information disclosed pursuant to paragraph 12 CFR 1026.41(d)(7)(v)? [12 CFR 1026.41(d)(8)(vii)]			
Valuation Independence (12 CFR 1026.42)			
46. In connection with any consumer credit transaction secured by the consumer's **principal** dwelling, did the covered person refrain from attempting to directly or indirectly cause the value assigned to the consumer's principal dwelling to be based on any factor other than the independent judgment of a person who prepares valuations, including by any of the following actions? [12 CFR 1026.42(c)] a. Refraining from seeking to influence a person who prepares a valuation to report a minimum or maximum value for the consumer's principal dwelling? b. Refraining from withholding or threatening to withhold timely payment to a person who prepares a valuation or performs valuation management functions because the person does not value the consumer's principal dwelling at or above a certain amount? c. Refraining from implying to a person who prepares valuations that current or future retention of the person depends on the amount at which the person estimates the value of the consumer's principal dwelling? d. Refraining from excluding a person who prepares a valuation from consideration for future engagement because the person reports a value for the consumer's principal dwelling that does not meet or exceed a predetermined threshold? e. Refraining from conditioning the compensation paid to a person who prepares a valuation on consummation of the covered transaction?			
47. Did the person preparing the valuation refrain from materially misrepresenting the value of the consumer's principal dwelling? [12 CFR 1026.42(c)(2)(i)] **Note:** A misrepresentation is material if it is likely to significantly affect the value assigned to the consumer's principal dwelling. A bona fide error shall not be a misrepresentation.			

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Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
48. Did the person preparing the valuation, and all other covered persons, refrain from falsifying the valuation and did all other covered persons refrain from materially altering the valuation? [12 CFR 1026.42(c)(2)(ii)] **Note:** An alteration is material if it is likely to significantly affect the value assigned to the consumer's principal dwelling.			
49. Did all the covered persons refrain from inducing a person to materially misrepresent, falsify, or alter the value of a consumer's principal dwelling? [12 CFR 1026.42(c)(2)(iii)]			
50. To the extent applicable, did the person who prepared the valuations or performed the valuation management functions for a covered transaction refrain from having a direct or indirect interest, financial or otherwise, in the property or transaction for which the valuation is or will be performed? [12 CFR 1026.42(d)(1)(i)] **Note:** No person violates 12 CFR 1026.42(d)(1)(i) solely because that person is an employee or affiliate of the creditor, or provides a settlement service in addition to preparing valuations or performing valuation management functions, or based solely on the fact that the person's affiliate performs another settlement service. There is a safe harbor based on the asset-size of the creditor. If the conditions of the safe harbors are not met, whether 12 CFR 1026.42(d)(1)(i) is violated by the above persons or entities depends on all of the facts and circumstances. [Commentary 12 CFR 1026.42(d)(2)-1, (d)(3)-1, and (d)(4)(i)-1]			
51. For any covered transaction in which the creditor had assets of more than $250 million as of December 31st for both of the past two calendar years, a person subject to 12 CFR 1026.42(d)(1)(i) who is employed by or affiliated with the creditor does not have a conflict of interest based on the person's employment or affiliate relationship with the creditor if the person meets all of the following conditions for the safe harbor: [12 CFR 1026.42(d)(2)] a. The compensation of the person preparing a valuation or performing valuation management functions is not based on the value arrived at in any valuation; b. The person preparing a valuation or performing valuation management functions reports to a person who is not part of the creditor's loan production function, as defined in 12 CFR 1026.42(d)(5)(i), and whose compensation is not based on the closing of the transaction to which the valuation relates; c. No employee, officer, or director in the creditor's loan production function, as defined in 12 CFR 1026.42 (d)(5)(i), is directly or indirectly involved in selecting, retaining, recommending or influencing the selection of the person to prepare a valuation or perform valuation management functions, or to be included in or excluded from a list of approved persons who prepare valuations or perform valuation management functions.			
52. For any covered transaction in which the creditor had assets of less than $250 million as of December 31 for both of the past two calendar years, a person subject to 12 CFR 1026.42(d)(1)(i) who is employed by or affiliated with the creditor does not have a conflict of interest based on the person's employment or affiliate relationship with the creditor if the person meets all of the following conditions for the safe harbor: [12 CFR 1026.42(d)(3)] a. The compensation of the person preparing a valuation or performing valuation management functions is not based the value arrived at in any valuation; b. The creditor requires that any employee, officer, or director of the creditor who orders, performs, or reviews a valuation for a covered transaction abstain from			

Worksheet 13: Special Rules for Certain Home Mortgage Transactions File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
participating in any decision to approve, not approve, or set the terms of that transaction.			
53. Does the person who prepares a valuation or performs valuation management functions in addition to performing another settlement service for the transaction, or whose affiliate performs another settlement service for the transaction, avoid a conflict of interest as a result of the person or the person's affiliate performing another settlement service for the transaction: [12 CFR 1026.42(d)(4)] a. For creditors with assets of more than $250 million as of December 31 for both of the past two calendar years, by meeting the conditions at step 51a, b, and c? b. For creditors with assets of $250 million or less as of December 31 for both of the past two calendar years, by meeting the conditions at step 52a and b?			
54. If the creditor knew at or before consummation of a violation of 12 CFR 1026.42(c) or (d) in connection with a valuation, did the creditor refrain from extending credit based on the valuation, unless the creditor documented that it acted with reasonable diligence to determine that the valuation did not materially misstate or misrepresent the value of the consumer's principal dwelling? [12 CFR 1026.42(e)] **Note:** For purposes of 12 CFR 1026.42(e), a valuation materially misstates or misrepresents the value of the consumer's principal dwelling if the valuation contains a misstatement or misrepresentation that affects the credit decision or the terms on which credit is extended.			
55. Did the creditor and its agents compensate a fee appraiser for performing appraisal services at a rate that is customary and reasonable for comparable appraisal services performed in the geographic market of the property being appraised? [12 CFR 1026.42(f)(1)] **Note:** For purposes of 12 CFR 1026.42(f) “agents” of the creditor do not include any fee appraiser as defined in 12 CFR 1026.42(f)(4)(i). (In most cases the “agent” will be an appraisal management company to which the creditor has outsourced the valuation function.)			
56. If the creditor reasonably believes an appraiser has not complied with the Uniform Standards of Professional Appraisal Practice or ethical or professional requirements for appraisers under applicable state or federal statutes or regulations, did the creditor refer the matter within a reasonable period of time to the appropriate state agency if the failure to comply is material? [12 CFR 1026.42(g)(1)] **Note:** For purposes of 12 CFR 1026.42(g), a failure to comply is material if it is likely to significantly affect the value assigned to the consumer's principal dwelling.			
Ability to Repay, Refinancing of Non-Standard Mortgages, Qualified Mortgages, Prepayment Penalty Restrictions, Evasion (12 CFR 1026.43(c), (d), (e), (f), (g), and (h))			
If the covered loan is not a qualified mortgage (QM) or a refinance of a nonstandard mortgage, complete 57–58, 60–66.			

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Name of borrower:			
Account number:			
	Yes	**No**	**NA**
If the covered loan is a refinance of a nonstandard mortgage, complete 59–66. If the covered loan is a QM, complete 60–66 and either (1) complete the appropriate supplementary worksheet to Worksheet 13 or (2) confirm that loan is eligible to be insured by HUD and in fact meets the HUD definition of QM under 24 CFR 201.7, 203.19, 1005.120, or 1007.80, or (3) confirm that loan meets the conditions of a VA-guaranteed or VA-insured qualified mortgage as set forth in 38 CFR 36.4300(b) or 36.4300(c). If the covered loan does not meet these criteria, complete 57–58. **Note:** Unless otherwise exempt, a "covered transaction" is a closed-end consumer credit transaction secured by a dwelling (including any real property attached to a dwelling). [12 CFR 1026.43(b)(1)]. HELOCs and time-share plan loans are not subject to 12 CFR 1026.43. The following are also not subject to 12 CFR 1026.43 except for the prepayment penalty provisions in 12 CFR 1026.43(g): (1) reverse mortgages, (2) temporary or bridge loans with a term of 12 months or less, (3) the construction phase of 12 months or less of a construction-to-permanent loan, (4) loans made by a creditor designated as a Community Development Financial Institution (CDFI), (5) an extension of credit made pursuant to federal emergency economic stabilization programs, including Home Affordable Modification Program (HAMP) and Home Affordable Refinance Program (HARP) transactions, (6) certain other community housing assistance programs (including credit extended pursuant to a program administered by housing finance agencies), and (7) loans made by 501(c)(3) nonprofit entities. [12 CFR 1026.43(a)]			
57. Did the creditor make a reasonable and good faith determination at or before consummation of a covered transaction that the consumer has a reasonable ability to repay the loan according to its terms, only after it considered the consumer's a. current or reasonably expected income or assets (other than value of the dwelling and attached real property)? [12 CFR 1026.43(c)(2)(i)] b. current employment status (if the creditor relies on employment income for its determination)? [12 CFR 1026.43(c)(2)(ii)] c. monthly payment on the covered transaction, calculated as follows? [12 CFR 1026.43(c)(2)(iii)] i. Unless a balloon payment, interest-only, or negatively amortizing loan, the creditor must use the greater of the fully indexed rate or any introductory interest rate and monthly, fully amortizing payments that are substantially equal. [12 CFR 1026.43(c)(5)(i)] ii. If a loan with a balloon payment (has a payment that is more than two times a regular periodic payment), the creditor must use the maximum payment scheduled during the first five years after the date on which the first regular periodic payment will be due for a loan that is not a higher-priced covered transaction; or the maximum payment in the payment schedule, including any balloon payment, for a higher-priced covered transaction. [12 CFR 1026.43(c)(5)(ii)(A)] **Note:** A "higher-priced covered transaction" has an APR that exceeds the APOR for a comparable transaction as of the interest rate set date by 1.5 or more percentage points for a first-lien covered transaction, other than a qualified mortgage under 12 CFR 1026.43(e)(5), (e)(6), or (f); by 3.5 or more percentage points for a first-lien covered transaction that is a qualified mortgage under 12 CFR 1026.43(e)(5), (e)(6), or (f); or by 3.5 or more percentage points for a subordinate-lien covered transaction. [12 CFR 1026.43(b)(4)]			

Worksheet 13: Special Rules for Certain Home Mortgage Transactions File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
Note: Example for a renewable balloon-payment loan: In determining the maximum payment scheduled during the first five years for a renewable balloon-payment (not higher-priced) covered transaction with a three-year loan term, in which the creditor is unconditionally obligated to renew at the consumer's option for another three-year term, the creditor must use a loan term of three years and determine the consumer's ability to repay using the balloon payment. [See Commentary 12 CFR 1026.43(c)(5)(ii)-3] iii. If an interest-only loan the creditor must use the greater of the fully indexed rate or any introductory interest rate and substantially equal, monthly payments of principal and interest that will repay the loan amount over the term of the loan remaining as of the date the loan is recast. [12 CFR 1026.43(c)(5)(ii)(B)] iv. If a negative amortization loan, the creditor must use the greater of the fully indexed rate or any introductory interest rate and substantially equal, monthly payments of principal and interest that will repay the maximum loan amount over the term of the loan remaining as of the date the loan is recast. [12 CFR 1026.43(c)(5)(ii)(C)] d. monthly payment on any simultaneous loan (another covered transaction or HELOC made to the consumer at or before consummation of the covered transaction, or after to cover its closing costs, and secured by the same dwelling) that the creditor knows or has reason to know will be made, using the monthly payment calculation for covered loans (above) or the periodic payment under the HELOC's terms? [12 CFR 1026.43(c)(2)(iv), (c)(6)] e. monthly payment for mortgage-related obligations? [12 CFR 1026.43(c)(2)(v)] f. current debt obligations, alimony, and child support? [12 CFR 1026.43(c)(2)(vi)] g. monthly debt-to-income ratio or residual income as follows? [12 CFR 1026.43(c)(2)(vii)] i. If the creditor considered the consumer's monthly DTI ratio, it must have considered the ratio of total monthly debt obligations to total monthly income. [12 CFR 1026.43(c)(7)(ii)(A)] ii. If the creditor considered the consumer's monthly residual income, it must have considered the consumer's remaining income after subtracting total monthly debt obligations from total monthly income. [12 CFR 1026.43(c)(7)(ii)(B)] **Note:** "Total monthly debt obligations" means the sum of the payment on the covered transaction, as required to be calculated by 12 CFR 1026.43(c)(2)(iii) and (c)(5); simultaneous loans, as required by 12 CFR 1026.43(c)(2)(iv) and (c)(6); mortgage-related obligations, as required by 12 CFR 1026.43(c)(2)(v); and current debt obligations, alimony, and child support, as required by 12 CFR 1026.43(c)(2)(vi). "Total monthly income" means the sum of the consumer's current or reasonably expected income, including any income from assets, as required by 12 CFR 1026.43(c)(2)(i) and (c)(4). [12 CFR 1026.43(c)(7)(i)] h. credit history? [12 CFR 1026.43(c)(2)(viii)]			
58. In determining a consumer's repayment ability under 12 CFR 1026.43(c), did the creditor verify the information it relied on (eight factors listed in question 57) using reasonably reliable third-party records, including verifying the amounts of the consumer's income or assets using third-party party records that provide reasonably			

Worksheet 13: Special Rules for Certain Home Mortgage Transactions File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
reliable evidence of the consumer's income and assets, such as a tax-return transcript issued by the IRS, copies of tax returns filed with the IRS or state taxing authority, IRS Form W-2s, payroll statements, financial institution records, records obtained by the consumer's employer, records from government agencies stating income from benefits or entitlements, and receipts from check chasing or funds transfer services? [12 CFR 1026.43(c)(3), (c)(4)] **Note:** A third-party record is a document or other record prepared or reviewed by an appropriate person other than the consumer, creditor, or mortgage broker; a record maintained by the creditor for a consumer's account held by the creditor; a record maintained by the creditor or broker, as the consumer's employer, related to employment status or income; and, a copy of a tax return filed with the IRS or a state taxing authority. [12 CFR 1026.43(b)(13)] There are two exceptions to verification by a third-party record. A creditor may verify employment status orally if the creditor prepares a record of the information obtained orally. Also, the creditor need not independently verify a current debt obligation stated on the loan application but not shown in the consumer's credit report. [12 CFR 1026.43(c)(3)(ii), (c)(3)(iii)]			
59. Was the creditor not required to comply with the requirements of 12 CFR 1026.43(c) because the following conditions for refinancing a non-standard mortgage to a standard mortgage were met? [12 CFR 1026.43(d)(3)] a. At the time of the refinance, the creditor for the standard mortgage was the current holder of the non-standard mortgage or the servicer acting on behalf of the current holder. [12 CFR 1026.43(d)(2)(i)] b Based on the following calculations, the creditor determined that the standard mortgage's monthly payment is materially lower than the non-standard mortgage's monthly payment: [12 CFR 1026.43(d)(2)(ii)] i. The creditor calculated the monthly payment for the non-standard mortgage based on substantially equal, monthly, fully amortizing payments of principal and interest using • the fully indexed rate as of a reasonable period of time (generally 30 days) before or after the date on which the creditor received the consumer's written application for the standard mortgage. [12 CFR 1026.43(d)(5)(i)(A)] • the term of the loan remaining as of the date the loan is recast. [12 CFR 1026.43(d)(5)(i)(B)] • the outstanding principal balance as of the date of the recast, for an ARM or interest-only loan, assuming all scheduled payments have been made up to that date and the last payment due is made and credited on that date; and, for a negative amortization loan, the maximum loan amount, determined after adjusting for the outstanding principal balance. [12 CFR 1026.43(d)(5)(i)(C)] ii. The creditor calculated the monthly payment for the standard mortgage on substantially equal, monthly, fully amortizing payments based on the maximum interest rate that may apply during the first five years after consummation. [12 CFR 1026.43(d)(5)(ii)] c. The creditor received the consumer's written application for the standard mortgage no later than two months after the non-standard mortgage had recast. [12 CFR 1026.43(d)(2)(iii)]			

Worksheet 13: Special Rules for Certain Home Mortgage Transactions File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
d. The consumer made no more than one payment more than 30 days late on the non-standard mortgage during the 12 months immediately preceding the creditor's receipt of the standard mortgage application. [12 CFR 1026.43(d)(2)(iv)] e. The consumer made no payments more than 30 days late during the six months immediately preceding the creditor's receipt of the application. [12 CFR 1026.43(d)(2)(v)] f. If the non-standard mortgage was consummated on or after January 10, 2014, the non-standard mortgage was made in accordance with 12 CFR 1026.43(c) or 1026.43(e), as applicable. [12 CFR 1026.43(d)(2)(vi)] g. The creditor considered whether the standard mortgage likely would prevent a default by the consumer on the non-standard mortgage once recast. [12 CFR 1026.43(d)(3)(ii)] **Note**: A "non-standard mortgage" is a covered transaction that is either an ARM, with an introductory fixed interest rate for a period of one year or longer, an interest-only loan, or a negative amortization loan. A "standard mortgage" means a covered transaction that provides for regular periodic payments that do not cause the principal balance to increase; allow the consumer to defer repayment of principal; or result in a balloon payment. A standard mortgage is subject to the following limitations: Total points and fees payable in connection with the transaction do not exceed the amounts specified in 12 CFR 1026.43 (e)(3); the loan term does not exceed 40 years; the loan has a fixed interest rate for at least the first five years; and the proceeds from the loan are used solely for paying off the outstanding non-standard loan's principal balance, as well as the closing or settlement charges disclosed under RESPA. [12 CFR 1026.43(d)(1)(i), (d)(1)(ii)]			
60. Does the covered transaction **not** include a prepayment penalty, except if it meets all of the following conditions? [12 CFR 1026.43(g)] a. It is a qualified mortgage under 12 CFR 1026.43(e)(2), (e)(4), (e)(5), (e)(6), or (f). b. The prepayment penalty is otherwise allowed by law. c. The mortgage has an APR that cannot increase after consummation. d. The loan is not a higher-priced mortgage loan, as defined in 12 CFR 1026.35(a). **Note:** A covered transaction is a closed-end consumer credit transaction, except for a time-share loan, and includes reverse mortgages; temporary, "bridge," or construction loans of 12 months or less; renewable or non-renewable construction loans of 12 months or less that are a part of a construction-to-permanent transaction; loans under a program administered by a housing finance agency or made in connection with certain federal emergency economic stabilization programs. [12 CFR 1026.43(a)]			
61. If the covered transaction was consummated with a prepayment penalty as permitted under the conditions above, is the prepayment penalty applied only within the three-year period following consummation, and does the amount **not** exceed 2 percent of the outstanding balance prepaid if incurred during the first two years following consummation and 1 percent of the outstanding balance prepaid if incurred during the third year following consummation? [12 CFR 1026.43(g)(2), (g)(6)]			
62. If the creditor offered a consumer a mortgage with a prepayment penalty and consummated the covered transaction with a prepayment penalty, did the creditor also offer an alternative covered transaction without a prepayment penalty, in which			

Worksheet 13: Special Rules for Certain Home Mortgage Transactions File Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
the creditor had a good faith belief that the consumer likely qualified based on the information it knew at the time, and which had the following features? [12 CFR 1026.43(g)(3), (g)(3)(v), and (g)(6)] a. An APR that cannot increase after consummation and has the same type of interest rate (fixed or step rate) as the loan with a prepayment penalty. [12 CFR 1026.43(g)(3)(i)] b. The same loan term as the loan with a prepayment penalty. [12 CFR 1026.43(g)(3)(ii)] c. Regular periodic payments that are substantially equal (except for the effect of interest rate changes in ARMs or step-rate mortgages), that do not increase the principal balance and do not allow the consumer to defer repayment of principal or result in a balloon-payment, except as provided for balloon-payment qualified mortgages in 12 CFR 1026.43(f). [12 CFR 1026.43(g)(3)(iii)] d. Points and fees (defined in 12 CFR 1026.32(b)(1)(i)) that met the following limits (adjusted annually on January 1 for inflation), based on the information known to the creditor at the time of the offer [12 CFR 1026.43(g)(3)(iv)] i. For a loan amount of $100,000 or more: 3 percent of the total loan amount (see 12 CFR 1026.32(b)(4)(i)). ii. For a loan amount of $60,000 or more but less than $100,000: $3,000. iii. For a loan amount of $20,000 or more but less than $60,000: 5 percent of the total loan amount. iv. For a loan amount of $12,500 or more but less than $20,000: $1,000. v. For a loan amount of less than $12,500: 8 percent of the total loan amount.			
63. If the creditor offered a loan with a prepayment penalty through a mortgage broker, did the creditor present the mortgage broker with an alternative covered transaction without a prepayment penalty that satisfies 12 CFR 1026.43(g)(3) and establish by agreement that the mortgage broker present an alternative covered transaction without a prepayment penalty offered either by the creditor or another creditor, if the other creditor's transaction had a lower interest rate or lower total dollar amount of discount points and origination points and fees? [12 CFR 1026.43(g)(4)]			
64. If the creditor is a loan originator, who presented a covered transaction with a prepayment penalty offered by another person to whom the loan would be assigned after consummation, did the creditor present the consumer an alternative covered transaction without a prepayment penalty that satisfied 12 CFR 1026.43(g), which was offered by the assignee or another person offering a lower interest rate or a lower total dollar amount of origination discount points and points or fees? [12 CFR 1026.43(g)(5)]			
65. Has the creditor avoided structuring a loan as an open-end plan to evade the requirements of 12 CFR 1026.43? [12 CFR 1026.43(h)]			
66. Has the creditor retained evidence of compliance with 12 CFR 1026.43 for three years after consummation of a transaction covered by that section? [12 CFR 1026.25(c)(3)]			

Worksheet 13A: General Definition Qualified Mortgages

Determine whether the creditor has complied with the ability-to-repay requirements of 12 CFR 1026.43(c) by making a loan that is a qualified mortgage under the general qualified mortgage definition. [12 CFR 1026.43(e)(2)]

If upon review, a covered transaction does not meet all of the applicable conditions for a qualified mortgage under 12 CFR 1026.43(e)(2), (e)(4),(e)(5), (e)(6), or (f), the loan must comply with 12 CFR 1026.43(c), which requires an ability-to-repay determination by the creditor, unless otherwise exempt. See questions 57 and 58 of Worksheet 13 for further information.

A "covered transaction" for this analysis is a closed-end consumer credit transaction secured by a dwelling, including any real property attached to a dwelling. [12 CFR 1026.43(b)(1)] The following are not covered transactions for these purposes: (1) HELOCs, (2) time-share loans, (3) reverse mortgages, (4) temporary or bridge loans with a term of 12 months or less, (5) the construction phase of 12 months or less of a construction-to-permanent loan, (6) loans made by a creditor designated as a CDFI, (7) an extension of credit made pursuant to federal emergency economic stabilization programs, including HAMP and HARP transactions, (8) certain other community housing assistance programs (including credit extended pursuant to a program administered by housing finance agencies), and (9) loans made by 501(c)(3) nonprofit entities. [12 CFR 1026.43(a)]

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 13A: General Definition Qualified Mortgages			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
1. Does the loan provide for regular, substantially equal, periodic payments, except for the effect any interest rate change after consummation has on ARMs or step-rate mortgages that do not [12 CFR 1026.43(e)(2)(i)] a. result in an increase of the principal balance? [12 CFR 1026.43(e)(2)(i)(A)] b. allow balloon payments or deferment of principal payments (except for balloon-payment qualified mortgages described in 12 CFR 1026.43(f) and (e)(6))? [12 CFR 1026.43(e)(2)(i)(B), (e)(2)(i)(C)]			
2. Does the loan term not exceed 30 years? [12 CFR 1026.43(e)(2)(ii)]			
3. Do the total points and fees (defined in 12 CFR 1026.32(b)(1)(i)) not exceed [12 CFR 1026.43(e)(2)(iii), (e)(3)]			

Worksheet 13A: General Definition Qualified Mortgages			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
a. for a loan amount of $100,000 or more: 3 percent of the "total loan amount" (see 12 CFR 1026.32(b)(4)(i))? b. for a loan amount of $60,000 or more but less than $100,000: $3,000? c. for a loan amount of $20,000 or more but less than $60,000: 5 percent of the total loan amount? d. for a loan amount of $12,500 or more but less than $20,000: $1,000? e. for a loan amount less than $12,500: 8 percent of the total loan amount? **Note:** These numbers will be annually adjusted for inflation on January 1.			
4. When underwriting the loan, did the creditor take into account the monthly payment for mortgage-related obligations, using [12 CFR 1026.43(e)(2)(iv)] a. the maximum interest rate that may apply during the first 5 years after the date on which the first regular periodic payment will be due? b. periodic payments of principal and interest that will repay either i. the outstanding principal balance over the remaining term of the loan? This should be calculated as of the date the interest rate adjusts to the maximum interest rate that may apply during the first five years after the date on which the first regular periodic payment will be due, assuming the consumer will have made all required payments as due before that date; or ii. the loan amount over the loan term.			
5. Did the creditor consider and verify at or before consummation the following: [12 CFR 1026.43(e)(2)(v)] a. The consumer's current or reasonably expected income or assets other than the value of the dwelling (including any real property attached to the dwelling) that secures the loan, in accordance with Regulation Z's appendix Q and 12 CFR 1026.43(c)(2)(i) and (c)(4); and b. The consumer's current debt obligations, alimony, and child support in accordance with appendix Q and 12 CFR 1026.43(c)(2)(vi) and (c)(3).			
6. At the time of consummation, was the ratio of the consumer's total monthly debt to total monthly income at the time of consummation not in excess of 43 percent? [12 CFR 1026.43(e)(2)(vi)] **Note:** The ratio of the consumer's total monthly debt to total monthly income is determined in accordance with the standards in appendix Q [12 CFR 1026.43(e)(2)(vi)(A)], except the creditor calculates the consumer's monthly payment on (a) the covered transaction, including the monthly payment for mortgage-related obligations, in accordance with 12 CFR 1026.43(e)(2)(iv) (see question 4 above) and (b) any simultaneous loan that the creditor knows or has reason to know will be made, in accordance with 12 CFR 1026.43(c)(2)(iv) and (c)(6). (See also Worksheet 13, question 57 d). [12 CFR 1026.43(e)(2)(vi)(B)]			

Worksheet 13B: Temporary Category Qualified Mortgages

Determine whether the creditor has complied with the ability-to-repay requirements of 12 CFR 1026.43(c) by making a loan that is a qualified mortgage under the temporary category qualified mortgage definition. [12 CFR 1026.43(e)(4)]

If upon review, a covered transaction does not meet all of the applicable conditions for a qualified mortgage under 12 CFR 1026.43(e)(2), (e)(4),(e)(5), (e)(6), or (f), the loan must comply with 12 CFR 1026.43(c), which requires an ability-to-repay determination by the creditor, unless otherwise exempt. See questions 57 and 58 of Worksheet 13 for further information.

A "covered transaction" for this analysis is a closed-end consumer credit transaction secured by a dwelling, including any real property attached to a dwelling. [12 CFR 1026.43(b)(1)] The following are not covered transactions for these purposes: (1) HELOCs, (2) time-share loans, (3) reverse mortgages, (4) temporary or bridge loans with a term of 12 months or less, (5) the construction phase of 12 months or less of a construction-to-permanent loan, (6) loans made by a creditor designated as a CDFI, (7) an extension of credit made pursuant to federal emergency economic stabilization programs, including HAMP and HARP transactions, (8) certain other community housing assistance programs (including credit extended pursuant to a program administered by housing finance agencies), and (9) loans made by 501(c)(3) nonprofit entities. [12 CFR 1026.43(a)]

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 13B: Temporary Category Qualified Mortgages			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
1. Does the loan provide for regular, substantially equal, periodic payments, except for the effect any interest rate change after consummation has on ARMs or step-rate mortgages that do not [12 CFR 1026.43(e)(2)(i), (e)(4)(i)(A)] a. result in an increase of the principal balance [12 CFR 1026.43(e)(2)(i)(A)], or b. allow balloon payments or deferment of principal payments (except for balloon-payment qualified mortgages described in 12 CFR 1026.43(f) and (e)(6))? [12 CFR 1026.43(e)(2)(i)(B), (e)(2)(i)(C)]			
2. Does the loan term not exceed 30 years? [12 CFR 1026.43(e)(2)(ii), (e)(4)(i)(A)]			
3. Do the total points and fees (defined in 12 CFR 1026.32(b)(1)(i)) not exceed [12 CFR 1026.43(e)(2)(iii), (e)(3), and (e)(4)(i)(A)]			

Worksheet 13B: Temporary Category Qualified Mortgages			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
a. for a loan amount of $100,000 or more: 3 percent of the "total loan amount" (see 12 CFR 1026.32(b)(4)(i))? b. for a loan amount of $60,000 or more but less than $100,000: $3,000? c. for a loan amount of $20,000 or more but less than $60,000: 5 percent of the total loan amount? d. for a loan amount of $12,500 or more but less than $20,000: $1,000? e. for a loan amount less than $12,500: 8 percent of the total loan amount? **Note:** These numbers will be annually adjusted for inflation on January 1.			
4. At the time of consummation, was the loan eligible (except with regard to matters wholly unrelated to ability to repay) to be purchased, guaranteed, or insured by any of the following: [12 CFR 1026.43(e)(4)(i)(B)] Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac), while operating under the conservatorship or receivership of the Federal Housing Finance Agency [12 CFR 1026.43(e)(4)(ii)(A)(1); see also (e)(4)(ii)(A)(2)] U.S. Department of Veterans Affairs [12 CFR 1026.43(e)(4)(ii)(C)] ; or U.S. Department of Agriculture pursuant to 42 USC 1472(h); or the Rural Housing Service [12 CFR 1026.43(e)(4)(ii)(D)-(E)] **Note:** The temporary category qualified mortgage, provided in 12 CFR 1026.43(e)(4), expires on the effective date of a rule issued by each respective agency pursuant to its authority under TILA section 129C(b)(3)(ii) to define a qualified mortgage. These special rules in 12 CFR 1026.43(e)(4) are available only for covered transactions consummated on or before January 10, 2021. [12 CFR 1026.43(e)(4)(iii)]			

Worksheet 13C: Small Creditor Portfolio Qualified Mortgages

Determine whether the creditor has complied with the ability-to-repay requirements of 12 CFR 1026.43(c) by making a loan that is a qualified mortgage under the small creditor portfolio qualified mortgage definition. [12 CFR 1026.43(e)(5)]

If upon review, a covered transaction does not meet all of the applicable conditions for a qualified mortgage under 12 CFR 1026.43(e)(2), (e)(4),(e)(5), (e)(6), or (f), the loan must comply with 12 CFR 1026.43(c), which requires an ability-to-repay determination by the creditor, unless otherwise exempt. See questions 57 and 58 of Worksheet 13 for further information.

A "covered transaction" for this analysis is a closed-end consumer credit transaction secured by a dwelling, including any real property attached to a dwelling. [12 CFR 1026.43(b)(1)] The following are not covered transactions for these purposes: (1) HELOCs, (2) time-share loans, (3) reverse mortgages, (4) temporary or bridge loans with a term of 12 months or less, (5) the construction phase of 12 months or less of a construction-to-permanent loan, (6) loans made by a creditor designated as a CDFI, (7) an extension of credit made pursuant to federal emergency economic stabilization programs, including HAMP and HARP transactions, (8) certain other community housing assistance programs (including credit extended pursuant to a program administered by housing finance agencies), and (9) loans made by 501(c)(3) nonprofit entities. [12 CFR 1026.43(a)]

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 13C: Small Creditor Portfolio Qualified Mortgages			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
1. Does the creditor satisfy the following creditor requirements to meet the definition as a "small creditor under 12 CFR 1026.35(b)(2)(iii)(B), and (C): [12 CFR 1026.43(e)(5)(D)] a. During the preceding calendar year, the creditor, together with its affiliates, originated 500 or fewer first-lien covered transactions; and b. As of the end of the preceding calendar year, the creditor had total assets of less than $2 billion (adjusted annually).			
2. Does the loan provide for regular, substantially equal, periodic payments, except for the effect any interest rate change after consummation has on ARMs or step-rate mortgages that do not [12 CFR 1026.43(e)(2)(i), (e)(5)(A)] a. result in an increase of the principal balance? [12 CFR 1026.43(e)(2)(i)(A)]			

Worksheet 13C: Small Creditor Portfolio Qualified Mortgages			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
b. allow balloon payments or deferment of principal payments (except for balloon-payment qualified mortgages described in 12 CFR 1026.43(f) and (e)(6))? [12 CFR 1026.43(e)(2)(i)(B), (e)(2)(i)(C)]			
3. Does the loan term not exceed 30 years? [12 CFR 1026.43(e)(2)(ii), (e)(5)(A)]			
4. Do the total points and fees (defined in 12 CFR 1026.32(b)(1)(i)) not exceed [12 CFR 1026.43(e)(2)(iii), (e)(3), (e)(5)(A)] a. for a loan amount of $100,000 or more: 3 percent of the "total loan amount" (see 12 CFR 1026.32(b)(4)(i))? b. for a loan amount of $60,000 or more but less than $100,000: $3,000? c. for a loan amount of $20,000 or more but less than $60,000: 5 percent of the total loan amount? d. for a loan amount of $12,500 or more but less than $20,000: $1,000? e. for a loan amount less than $12,500: 8 percent of the total loan amount? **Note:** These numbers are annually adjusted for inflation on January 1.			
5. When underwriting the loan, did the creditor take into account the monthly payment for mortgage-related obligations, using [12 CFR 1026.43(e)(2)(iv), (e)(5)(A)] a. the maximum interest rate that may apply during the first five years after the date on which the first regular periodic payment will be due? b. periodic payments of principal and interest that will repay either i. the outstanding principal balance over the remaining term of the loan? This should be calculated as of the date the interest rate adjusts to the maximum interest rate that may apply during the first five years after the date on which the first regular periodic payment will be due, assuming the consumer will have made all required payments as due before that date; or ii. the loan amount over the loan term?			
6. Did the creditor consider the consumer's monthly debt-to-income ratio or residual income and verify debt obligations and income used to determine that ratio at or before consummation as follows: a. If the creditor considered the consumer's monthly debt-to-income ratio, it must have considered the ratio of total monthly debt obligations to total monthly income. b. If the creditor considered the consumer's monthly residual income, it must have considered the consumer's remaining income after subtracting total monthly debt obligations from total monthly income. **Note:** "Total monthly income" is the sum of the consumer's current or reasonably expected income, including any income from assets (other than the value of the dwelling or real property attached to the dwelling). [12 CFR 1026.43(c)(7)(i)(B), (e)(5)(B)] The "total monthly debt obligations" means the sum of [12 CFR 1026.43(c)(7)(i)(A), (e)(2)(iv), (e)(5)(B)] i. the monthly payment on the loan using the maximum interest rate in the first five years after the date on which the first regular periodic payment is due, and periodic payments of principal and interest that will repay either the			

Worksheet 13C: Small Creditor Portfolio Qualified Mortgages			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
outstanding principal balance over the remaining term of the loan or the loan amount over the loan term. ii. the monthly payment on any simultaneous loan (another covered transaction or HELOC made to the consumer at or before consummation of the covered transaction, or after to cover its closing costs, and secured by the same dwelling) that the creditor knows or has reason to know will be made, using the monthly payment calculation for covered loans (above) or the periodic payment under the HELOC's terms. iii. the monthly payment for mortgage-related obligations. iv. current debt obligations, alimony, and child support.			
7. At consummation, was the loan **not** subject to a forward commitment, except to a person that satisfies the "small creditor" requirements of 12 CFR 1026.35(b)(2)(iii)(B), (b)(2)(iii)(C)? [12 CFR 1026.43(e)(5)(C)]			
8. If the loan met the requirements for a small creditor portfolio qualified mortgage at consummation, has it maintained its qualified mortgage status because the creditor did not transfer the loan, unless the transfer was [12 CFR 1026.43(e)(5)(ii)] a. three years or more after consummation? b. to a creditor that satisfies the "small creditor" requirements (above)? c. made pursuant to a capital restoration plan or other action under 12 USC 1831o, or to actions or instructions of a conservator, receiver, or bankruptcy trustee, or to orders by or agreements with a state or federal governmental agency with jurisdiction to examine the creditor? d. made pursuant to a merger of the creditor and another person or the acquisition of the creditor by another person, or the creditor's acquisition of another person? **Note:** If the loan has lost its qualified mortgage status, the creditor must have complied with the general ability-to-repay requirements under 12 CFR 1026.43(c); see Worksheet #13, questions 57–58.			

Worksheet 13D: Balloon-Payment Qualified Mortgages Made by Certain Small Creditors

Determine whether the creditor has complied with the ability-to-repay requirements of 12 CFR 1026.43(c) by making a loan that is a qualified mortgage under the balloon-payment qualified mortgage definition. [12 CFR 1026.43(f)]

If upon review, a covered transaction does not meet all of the applicable conditions for a qualified mortgage under 12 CFR 1026.43(e)(2), (e)(4),(e)(5), (e)(6), or (f), the loan must comply with 12 CFR 1026.43(c), which requires an ability-to-repay determination by the creditor, unless otherwise exempt. See questions 55 and 56 of Worksheet 13 for further information.

A "covered transaction" for this analysis is a closed-end consumer credit transaction secured by a dwelling, including any real property attached to a dwelling. [12 CFR 1026.43(b)(1)] The following are not covered transactions for these purposes: (1) HELOCs, (2) time-share loans, (3) reverse mortgages, (4) temporary or bridge loans with a term of 12 months or less, (5) the construction phase of 12 months or less of a construction-to-permanent loan, (6) loans made by a creditor designated as a CDFI, (7) an extension of credit made pursuant to federal emergency economic stabilization programs, including HAMP and HARP transactions, (8) certain other community housing assistance programs (including credit extended pursuant to a program administered by housing finance agencies), and (9) loans made by 501(c)(3) non-profit entities. [12 CFR 1026.43(a)]

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 13D: Balloon-Payment Qualified Mortgages Made by Certain Small Creditors			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
1. Does the creditor satisfy all of the following creditor requirements under 12 CFR 1026.35(b)(2)(iii)(A), (B) and (C): [12 CFR 1026.43(f)(1)(vi)] a. During any of the three preceding calendar years, the creditor extended more than 50 percent of its first-lien covered transactions on properties that are located in "rural" or "underserved" counties. **Note:** The regulation generally defines these two terms by reference to "urban influence codes" (for "rural") and HMDA data (for "underserved"). To ease compliance, however, the CFPB will post on its public Web site a list of "rural" and "underserved" counties that creditors may rely on as a safe harbor. See comment 12 CFR 1026.35(b)(2)(iv)-1.			

Worksheet 13D: Balloon-Payment Qualified Mortgages Made by Certain Small Creditors			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
b. During the preceding calendar year, the creditor, together with its affiliates, originated 500 or fewer first-lien covered transactions. c. As of the end of the preceding calendar year, the creditor had total assets of less than $2 billion (adjusted annually).			
2. Does the loan provide for regular, substantially equal, periodic payments (calculated using an amortization period that does not exceed 30 years), except for the effect any interest rate change after consummation has on ARMs or step-rate mortgages, that do not result in an increase of the principal balance? [12 CFR 1026.43(e)(2)(i)(A), (f)(1)(i), (f)(1)(iv)(A)]			
3. Is the loan term, at minimum, five years and no longer than 30 years? [12 CFR 1026.43(e)(2)(ii), (f)(1)(i), (f)(1)(iv)(C)]			
4. Do the total points and fees (defined in 12 CFR 1026.32(b)(1)(i)) not exceed [12 CFR 1026.43(e)(2)(iii), (e)(3), (f)(1)(i)] a. for a loan amount of $100,000 or more: 3 percent of the "total loan amount" (see 12 CFR 1026.32(b)(4)(i))? b. for a loan amount of $60,000 or more but less than $100,000: $3,000? c. for a loan amount of $20,000 or more but less than $60,000: 5 percent of the total loan amount? d. for a loan amount of $12,500 or more but less than $20,000: $1,000? e. for a loan amount less than $12,500: 8 percent of the total loan amount? **Note:** These numbers will be annually adjusted for inflation on January 1.			
5. Does the loan's interest rate not increase over the term of the loan? [12 CFR 1026.43(f)(1)(iv)(B)]			
6. Did the creditor consider and verify at or before consummation the following: [12 CFR 1026.43(e)(2)(v), (f)(1)(i)] a. The consumer's current or reasonably expected income or assets other than the value of the dwelling (including any real property attached to the dwelling) that secures the loan, in accordance with 12 CFR 1026.43(c)(2)(i) and (c)(4)? **Note:** The creditor must have verified the amounts of the consumer's income or assets using third-party party records that provide reasonably reliable evidence of the consumer's income and assets, such as a tax-return transcript issued by the IRS, copies of tax returns filed with the IRS or state taxing authority, IRS Form W-2s, payroll statements, financial institution records, records obtained by the consumer's employer, records from government agencies stating income from benefits or entitlements, and receipts from check chasing or funds transfer services. [12 CFR 1026.43(c)(3), (c)(4)] b. The consumer's current debt obligations, alimony, and child support in accordance with 12 CFR 1026.43(c)(2)(vi) and (c)(3)? **Note:** A third-party record is a document or other record prepared or reviewed by an appropriate person other than the consumer, creditor, or mortgage broker; a record maintained by the creditor for a consumer's account held by the creditor; a record maintained by the creditor or broker, as the consumer's employer, related to employment status or income; and a copy of a tax return filed with the IRS or a state taxing authority. [12 CFR 1026.43(b)(13)]			

Worksheet 13D: Balloon-Payment Qualified Mortgages Made by Certain Small Creditors			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
7. Did the creditor determine that the consumer could make all of the scheduled payments under the loan and the monthly payments for all mortgage-related obligations (excluding the balloon payment) from the consumer's current or reasonably expected income or assets (other than the dwelling that secures the loan)? [12 CFR 1026.43(f)(1)(ii)]			
8. Did the creditor consider the consumer's monthly debt-to-income ratio or residual income and verify debt obligations and income used to determine that ratio at or before consummation as follows: [12 CFR 1026.43(f)(1)(iii)] a. If the creditor considered the consumer's monthly debt-to-income ratio, it must have considered the ratio of total monthly debt obligations to total monthly income. b. If the creditor considered the consumer's monthly residual income, it must have considered the consumer's remaining income after subtracting total monthly debt obligations from total monthly income. **Note:** "Total monthly income" is the sum of the consumer's current or reasonably expected income, including any income from assets (other than the value of the dwelling or real property attached to the dwelling). [12 CFR 1026.43(c)(7)(i)(B), (f)(1)(iii)] "Total monthly debt obligations" means the sum of [12 CFR 1026.43(c)(7)(i)(A), (f)(1)(iii), (f)(1)(iv)] i. the payment on the covered transaction based on scheduled payments that are substantially equal and calculated using an amortization period that does not exceed 30 years; ii. the monthly payment on any simultaneous loan (another covered transaction or HELOC made to the consumer at or before consummation of the covered transaction, or after to cover its closing costs, and secured by the same dwelling) that the creditor knows or has reason to know will be made, using the monthly payment calculation for covered loans (above) or the periodic payment under the HELOC's terms; iii. the monthly payment for mortgage-related obligations, **excluding** the balloon payment; and iv. current debt obligations, alimony, and child support.			
9. At consummation, was the loan **not** subject to a forward commitment, except to a person that satisfies the creditor requirements of 12 CFR 1026.35(b)(2)(iii)(A),(B), and (C) (i.e., small creditor serving rural or underserved counties)?			
10. If the loan met the requirements for a balloon-payment qualified mortgage at consummation, has it maintained its qualified mortgage status because the creditor did not transfer the loan, unless the transfer was [12 CFR 1026.43(f)(2)] a. three years or more after consummation? b. to a creditor that satisfies the requirements for small creditors serving rural or underserved counties (above)? c. made pursuant to a capital restoration plan or other action under 12 USC 1831o, or to actions or instructions of a conservator, receiver, or bankruptcy trustee, or to orders by or agreements with a state or federal governmental agency with jurisdiction to examine the creditor? or			

Worksheet 13D: Balloon-Payment Qualified Mortgages Made by Certain Small Creditors			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
d. made pursuant to a merger of the creditor and another person or the acquisition of the creditor by another person, or the creditor's acquisition of another person? **Note:** If the loan has lost its qualified mortgage status, the creditor must have complied with the general ability-to-repay requirements under 12 CFR 1026.43(c); see Worksheet #13, questions 57–58.			

Worksheet 13E: Temporary Balloon-Payment Qualified Mortgages Made by Small Creditors

Applies Only to Covered Transactions Consummated on or Before January 10, 2016

Determine whether the creditor has complied with the ability-to-repay requirements of 12 CFR 1026.43(c) by making a loan that is a qualified mortgage under the temporary balloon-payment qualified mortgage definition. [12 CFR 1026.43(e)(6)]

If upon review, a covered transaction does not meet all of the applicable conditions for a qualified mortgage under 12 CFR 1026.43(e)(2), (e)(4),(e)(5), (e)(6), or (f), the loan must comply with 12 CFR 1026.43(c), which requires an ability-to-repay determination by the creditor, unless otherwise exempt. See questions 55 and 56 of Worksheet 13 for further information.

A "covered transaction" for this analysis is a closed-end consumer credit transaction secured by a dwelling, including any real property attached to a dwelling. [12 CFR 1026.43(b)(1)] The following are not covered transactions for these purposes: (1) HELOCs, (2) time-share loans, (3) reverse mortgages, (4) temporary or bridge loans with a term of 12 months or less, (5) the construction phase of 12 months or less of a construction-to-permanent loan, (6) loans made by a creditor designated as a CDFI, (7) an extension of credit made pursuant to federal emergency economic stabilization programs, including HAMP and HARP transactions, (8) certain other community housing assistance programs (including credit extended pursuant to a program administered by housing finance agencies), and (9) loans made by 501(c)(3) non-profit entities. [12 CFR 1026.43(a)]

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 13E: Temporary Balloon-Payment Qualified Mortgages Made by Small Creditors			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
1. Does the creditor satisfy all of the following creditor requirements under 12 CFR 1026.35(b)(2)(iii)(B) and (C): [12 CFR 1026.43(e)(6)(i)(B)] a. During the preceding calendar year, the creditor, together with its affiliates, originated 500 or fewer first-lien covered transactions. b. As of the end of the preceding calendar year, the creditor had total assets of less than $2 billion (adjusted annually).			
2. Does the loan provide for regular, substantially equal, periodic payments (calculated using an amortization period that does not exceed 30 years), except for the effect			

Worksheet 13E: Temporary Balloon-Payment Qualified Mortgages Made by Small Creditors			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
any interest rate change after consummation has on ARMs or step-rate mortgages, that do not result in an increase of the principal balance? [12 CFR 1026.43(e)(2)(i)(A), (e)(6)(i)(A), (f)(1)(i), (f)(1)(iv)]			
3. Is the loan term, at minimum, five years and no longer than 30 years? [12 CFR 1026.43(e)(2)(ii), (e)(6)(i)(A), (f)(1)(i), (f)(1)(iv)(A)]			
4. Do the total points and fees (defined in 12 CFR 1026.32(b)(1)(i)) not exceed [12 CFR 1026.43(e)(2)(iii), (e)(3), (e)(6)(i)(A), (f)(1)(i)] a. for a loan amount of $100,000 or more: 3 percent of the "total loan amount" (see 12 CFR 1026.32(b)(4)(i))? b. for a loan amount of $60,000 or more but less than $100,000: $3,000? c. for a loan amount of $20,000 or more but less than $60,000: 5 percent of the total loan amount? d. for a loan amount of $12,500 or more but less than $20,000: $1,000? e. for a loan amount less than $12,500: 8 percent of the total loan amount? **Note:** These numbers will be annually adjusted for inflation on January 1.			
5. Does the loan's interest rate not increase over the term of the loan? [12 CFR 1026.43(e)(6)(i)(A), (f)(1)(iv)(B)]			
6. Did the creditor consider and verify at or before consummation the following: [12 CFR 1026.43(e)(2)(v), (e)(6)(i)(A) (f)(1)(i)] a. The consumer's current or reasonably expected income or assets other than the value of the dwelling (including any real property attached to the dwelling) that secures the loan, in accordance with 12 CFR 1026.43(c)(2)(i) and (c)(4)? **Note:** The creditor must have verified the amounts of the consumer's income or assets using third-party records that provide reasonably reliable evidence of the consumer's income and assets, such as a tax-return transcript issued by the IRS, copies of tax returns filed with the IRS or state taxing authority, IRS Form W-2s, payroll statements, financial institution records, records obtained by the consumer's employer, records from government agencies stating income from benefits or entitlements, and receipts from check chasing or funds transfer services. [12 CFR 1026.43(c)(3), (c)(4)] b. The consumer's current debt obligations, alimony, and child support in accordance with 12 CFR 1026.43(c)(2)(vi) and (c)(3)? **Note:** A third-party record is a document or other record prepared or reviewed by an appropriate person other than the consumer, creditor, or mortgage broker; a record maintained by the creditor for a consumer's account held by the creditor; a record maintained by the creditor or broker, as the consumer's employer, related to employment status or income; and a copy of a tax return filed with the IRS or a state taxing authority. [12 CFR 1026.43(b)(13)]			
7. Did the creditor determine that the consumer could make all of the scheduled payments under the loan and the monthly payments for all mortgage-related obligations (excluding the balloon payment) from the consumer's current or reasonably expected income or assets (other than the dwelling that secures the loan)? [12 CFR 1026.43(e)(6)(i)(A), (f)(1)(ii)]			
8. Did the creditor consider the consumer's monthly debt-to-income ratio or residual income and verify debt obligations and income used to determine that ratio at or before consummation as follows: [12 CFR 1026.43(e)(6)(i)(A), (f)(1)(iii)]			

Worksheet 13E: Temporary Balloon-Payment Qualified Mortgages Made by Small Creditors			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
a. If the creditor considered the consumer's monthly debt-to-income ratio, it must have considered the ratio of total monthly debt obligations to total monthly income. b. If the creditor considered the consumer's monthly residual income, it must have considered the consumer's remaining income after subtracting total monthly debt obligations from total monthly income. **Note:** "Total monthly income" is the sum of the consumer's current or reasonably expected income, including any income from assets (other than the value of the dwelling or real property attached to the dwelling). [12 CFR 1026.43(c)(7)(i)(B), (e)(6)(i)(A), (f)(1)(iii)] "Total monthly debt obligations" means the sum of [12 CFR 1026.43(c)(7)(i)(A), (e)(6)(i)(A), (f)(1)(iii), (f)(1)(iv)] i. the payment on the covered transaction based on scheduled payments that are substantially equal and calculated using an amortization period that does not exceed 30 years; ii. the monthly payment on any simultaneous loan (another covered transaction or HELOC made to the consumer at or before consummation of the covered transaction, or after to cover its closing costs, and secured by the same dwelling) that the creditor knows or has reason to know will be made, using the monthly payment calculation for covered loans (above) or the periodic payment under the HELOC's terms; iii. the monthly payment for mortgage-related obligations, **excluding** the balloon payment; and iv. current debt obligations, alimony, and child support.			
9. At consummation, was the loan **not** subject to a forward commitment, except to a person that satisfies the creditor requirements of 12 CFR 1026.35(b)(2)(iii)(A),(B), and (C) (i.e. small creditor serving rural or underserved counties)? [12 CFR 1026.43(e)(6)(i)(A), (f)(1)(v)]			
10. If the loan met the requirements for a temporary balloon-payment qualified mortgage at consummation, has it maintained its qualified mortgage status because the creditor did not transfer the loan, unless the transfer was [12 CFR 1026.43(f)(2)] a. three years or more after consummation? b. to a creditor that satisfies the requirements for small creditors serving rural or underserved counties (above)? c. made pursuant to a capital restoration plan or other action under 12 USC 1831o, or to actions or instructions of a conservator, receiver, or bankruptcy trustee, or to orders by or agreements with a state or federal governmental agency with jurisdiction to examine the creditor? or d. made pursuant to a merger of the creditor and another person or the acquisition of the creditor by another person, or the creditor's acquisition of another person. **Note:** If the loan has lost its qualified mortgage status, the creditor must have complied with the general ability-to-repay requirements under 12 CFR 1026.43(c); see Worksheet #13, questions 57–58.			

Worksheet 14: Periodic Statements for Open-End Credit

Use for all open-end credit products for forms review by product type and sample review by loan name. To complete, review applicable forms and place a check in each applicable box. Review two consecutive periodic billing statements for each major type of open-end credit product offered. Determine if disclosures were calculated accurately and are consistent with the initial disclosure statement furnished in connection with the accounts (or any subsequent change in terms notice) and the underlying contractual terms governing the product(s). Use this worksheet to review audit work papers, evaluate bank policies, and perform expanded procedures and training, as appropriate. Only complete worksheet sections that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the work papers.

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception or deficiency and should be explained in the work papers. When performing expanded procedures, a "no" answer indicates a violation and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 14: Periodic Statements for Open-End Credit			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
1. Are periodic billing statements provided if at the end of a billing cycle the account has a debit or credit balance of $1 or more or if a finance charge has been imposed? [12 CFR 1026.5(b)(2)(i)]			
Periodic Billing Statements Worksheet for Home-Equity Plans Subject to 12 CFR 1026.40			
Note: For home-equity plans subject to 12 CFR 1026.40, a creditor may instead, at its option, comply with any of the requirements of 12 CFR 1026.7(b); any creditor that chooses not to provide a disclosure under paragraph 12 CFR 1026.7(a)(7), however, must comply with paragraph 12 CFR 1026.7(b)(6).			
2. Is the beginning outstanding balance provided? [12 CFR 1026.7(a)(1)]			
3. Are transactions identified and accurate? [12 CFR 1026.7(a)(2) and 1026.8]			
4. Are the dates and amounts of credits to account disclosed accurately? [12 CFR 1026.7(a)(3)]			
5. Are the periodic rate(s) and APR(s) stated and accurate? If it is a variable rate plan, is the fact that the periodic rate(s) may vary disclosed? [12 CFR 1026.7(a)(4)]			
6. If different rates apply to different types of transactions, except for promotional rates in periods in which they are actually applied, are the types of transactions to which the periodic rates apply disclosed? [12 CFR 1026.7(a)(4)]			
7. Is the amount of balance subject to the periodic rate and an explanation of how the balance is determined disclosed? [12 CFR 1026.7(a)(5)]			

Worksheet 14: Periodic Statements for Open-End Credit			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
Note: When a balance is determined without first deducting all credits and payments made during the billing cycle, that fact and the amount of the credits and payments shall be disclosed.			
8. Is any "finance charge" amount (using that term) disclosed and accurate? [12 CFR 1026.7(a)(6)]			
9. Are the components of the finance charge imposed during the billing cycle individually itemized and identified? [12 CFR 1026.7(a)(6)(i)]			
10. Are the amounts of any other charges debited to the account itemized, identified by type, and accurately disclosed? [12 CFR 1026.7(a)(6)(ii)]			
11. At the creditor's option, is the effective APR (using the term "APR") disclosed and accurate? [12 CFR 1026.7(a)(7)]			
12. Does the periodic statement disclose the date by which or the time period within which the new balance or any portion of the new balance must be paid to avoid additional finance charges? [12 CFR 1026.7(a)(8)]			
13. Does the periodic statement include the address for notice of billing errors? [12 CFR 1026.7(a)(9)] **Note**: Alternatively, the address may be provided on the billing rights statement permitted by 12 CFR 1026.9(a)(2)			
14. Are the account balance and closing date disclosed and accurate? [12 CFR 1026.7(a)(10)]			
Periodic Billing Statements for Open-End Not Home-Secured Plans			
15. Have reasonable procedures been adopted to ensure periodic statements for credit cards are mailed or delivered at least 21 days before the payment due date and the date on which any grace period expires? [12 CFR 1026.5(b)(2)(ii)] **Note:** For non-credit card open-end credit, there is a 21-day rule if there is a grace period and a 14-day rule if there is no grace period. [12 CFR 1026.5(b)(2)(ii)(B)]			
16. Is the beginning outstanding balance provided? [12 CFR 1026.7(b)(1)]			
17. Are transactions identified and disclosed accurately? [12 CFR 1026.7(b)(2) and 1026.8]			
18. Are the dates and amounts of credits to account disclosed accurately? [12 CFR 1026.7(b)(3)]			
19. Are the periodic rate(s) and APR(s), along with the range of balances to which they apply, stated and accurate? If it is a variable rate plan, is the fact that the periodic rate may vary disclosed? [12 CFR 1026.7(b)(4)]			
20. If different rates apply to different types of transactions, except for promotional rates in periods in which they are actually applied, are the types of transactions to which the periodic rates apply disclosed? [12 CFR 1026.7(b)(4)]			
21. Is the amount of balance to which a periodic rate was applied and an explanation of how that balance was determined, using the term "Balance Subject to Interest Rate," included? [12 CFR 1026.7(b)(5)] **Note**: When a balance is determined without first deducting all credits and payments made during the billing cycle, that fact and the amount of the credits and payments shall be disclosed.			
22. Does the periodic statement include the amounts of any charges imposed as part of a plan as stated in 12 CFR 1026.6(b)(3) (account-opening charges), grouped			

Worksheet 14: Periodic Statements for Open-End Credit			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
together, in proximity to transactions identified under 12 CFR 1026.7(b)(2), substantially similar to Sample G-18(A) in appendix G? [12 CFR 1026.7(b)(6)(i)]			
23. Are finance charges attributable to periodic interest rates, using the term "Interest Charge," grouped together under the heading "Interest Charged" and itemized and totaled by type of transaction; and is the total finance charges attributable to periodic interest rates, using the term "Total Interest," disclosed for the statement period and calendar year-to-date using a format substantially similar to Sample G-18A? [12 CFR 1026.7(b)(6)(ii)]			
24. Are charges imposed as part of the plan, other than charges attributable to periodic interest rates, grouped together under the heading "Fees," identified consistent with the feature or type, and itemized; and are total charges, using the term "Fees," disclosed for the statement period and calendar year-to-date, using a format substantially similar to Sample G-18(A)? [12 CFR 1026.7(b)(6)(iii)]			
25. If the creditor provides a change-in-terms notice required by 12 CFR 1026.9(c), or a rate increase notice required by 12 CFR 1026.9(g), on or with the periodic statement, has the creditor disclosed the information in 12 CFR 1026.9(c)(2)(iv)(A) and (c)(2)(iv)(B) (if applicable) or 12 CFR 1026.9(g)(3)(i) on the periodic statement in accordance with the format requirements in 12 CFR 1026.9(c)(2)(iv)(D), and 12 CFR 1026.9(g)(3)(ii)? See Forms G-18(F) and G-18(G). [12 CFR 1026.7(b)(7)]			
26. Is the grace period disclosed? **Note**: If a grace period is provided, a creditor may, at its option and without disclosure, impose no finance charge if payment is received after the time period's expiration. [12 CFR 1026.7(b)(8)]			
27. Does the periodic statement include the address for notice of billing errors? [12 CFR 1026.7(b)(9)] **Note**: The address may be provided on the billing rights statement permitted by 12 CFR 1026.9(a)(2)			
28. Are the account balance and closing date disclosed and accurate and is the new balance disclosed in accordance with the format requirements of 12 CFR 1026.7(b)(13)? [12 CFR 1026.7(b)(10)]			
29. Except for periodic statements provided solely for charge card accounts and for a charged-off account where payment of the entire account balance is due immediately, do periodic statements for credit cards include a. due date for a payment, which must be the same day of the month for each billing cycle? [12 CFR 1026.7(b)(11)(i)(A)] b. amount of any late payment fee and any increased periodic rate(s) expressed as an APR that may be imposed because of the late payment? [12 CFR 1026.7(b)(11)(i)(B)] c. if a range of fees may be assessed, either the range of fees or the highest fees that could apply and an indication that the fee imposed could be lower? [12 CFR 1026.7(b)(11)(i)(B)] d. if the rate may be increased for more than one feature or balance, either the range of rates or the highest rate that could apply? [12 CFR 1026.7(b)(11)(i)(B)]			
30. Is the due date disclosed on the front of the first page of the periodic statement; are the amount of the late payment fee and the increased APR stated in close proximity to the due date; are the ending balance and repayment disclosures (required by 12 CFR 1026.7(b)(12)) disclosed closely proximate to the minimum payment due; and are the due date, late payment fee and APR, ending balance, minimum			

Worksheet 14: Periodic Statements for Open-End Credit			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
payment due, and repayment disclosures grouped together? [12 CFR 1026.7(b)(13)]			
31. For accounts with an outstanding balance subject to a deferred interest or similar program, did the creditor disclose the date by which that outstanding balance must be paid in full to avoid finance charges on the front of any page of each periodic statement issued during the deferred interest period beginning with the first periodic statement issued during the deferred interest period that reflects the deferred interest or similar transaction? [12 CFR 1026.7(b)(14)] **Note:** The deferred interest disclosure must be substantially similar to Sample G-18(H) in appendix G.			
32. Except for those credit cards for which negative or no amortization occurs when calculating the minimum repayment payment estimate as described in appendix M1, do periodic statements for a credit card account under an open-end (not home-secured) consumer credit plan provide the following disclosures on each periodic statement: a. The following statement with a bold heading: "**Minimum Payment Warning**: If you make only the minimum payment each period, you will pay more in interest and it will take you longer to pay off your balance"? [12 CFR 1026.7(b)(12)(i)(A)] b. The minimum payment repayment estimate? [12 CFR 1026.7(b)(12)(i)(B)] **Note**: If the minimum payment repayment estimate is less than two years, the card issuer must disclose the estimate in months. Otherwise, the estimate must be disclosed in years and rounded to the nearest whole year. c. The minimum payment total cost estimate rounded to the nearest whole dollar or the nearest cent, at the card issuer's option? [12 CFR 1026.7(b)(12)(i)(C)] d. A statement that the minimum payment repayment estimate and the minimum payment total cost estimate are based on the current outstanding balance shown on the periodic statement; and a statement that the minimum payment repayment estimate and the minimum payment total cost estimate are based on the assumption that only minimum payments are made and no other amounts are added to the balance? [12 CFR 1026.7(b)(12)(i)(D)] e. A toll-free telephone number where the consumer may obtain from the card issuer information about credit counseling services? [12 CFR 1026.7(b)(12)(i)(E)] f. Except when the minimum payment repayment estimate is three years or less; and the estimated monthly payment for repayment in 36 months is less than the minimum payment required for that billing cycle; and a billing cycle where an account has both a balance in a revolving feature where the required minimum payments for this feature will not amortize that balance in a fixed amount of time specified in the account agreement and a balance in a fixed repayment feature where the required minimum payment for this fixed repayment feature will amortize that balance in a fixed amount of time specified in the account agreement which is less than 36 months, are the following disclosures provided: i. The estimated monthly payment for repayment in 36 months rounded to the nearest whole dollar or to the nearest cent, at the card issuer's option? [12 CFR 1026.7(b)(12)(i)(F)(1)(i)] ii. A statement that the card issuer estimates that the consumer will repay the outstanding balance shown on the periodic statement in three years if the			

Worksheet 14: Periodic Statements for Open-End Credit			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
consumer pays the estimated monthly payment each month for three years? [12 CFR 1026.7(b)(12)(i)(F)(1)(ii)] iii. The total cost estimate for repayment in 36 months rounded to the nearest whole dollar or to the nearest cent, at the card issuer's option? [12 CFR 1026.7(b)(12)(i)(F)(1)(iii)] and iv. The savings estimate for repayment in 36 months rounded to the nearest whole dollar or to the nearest cent, at the card issuer's option? [12 CFR 1026.7(b)(12)(i)(F)(1)(iv)]			
33. For non-amortizing or negatively amortizing credit card accounts under an open-end (not home-secured) consumer credit plan, does the card issuer provide the following disclosures on each periodic statement (instead of the disclosures set out at 12 CFR 1026.7(b)(12)(i)): a. "**Minimum Payment Warning:** Even if you make no more charges using this card, if you make only the minimum payment each month we estimate **you will never pay off the balance shown on this statement** because your payment will be less than the interest charged each month"? [12 CFR 1026.7(b)(12)(ii)(A)] b. "If you make more than the minimum payment each period, you will pay less in interest and pay off your balance sooner"? [12 CFR 1026.7(b)(12)(ii)(B)] c. The estimated monthly payment for repayment in 36 months rounded to the nearest whole dollar or to the nearest cent, at the creditor's option? [12 CFR 1026.7(b)(12)(ii)(C] d. A statement that the card issuer estimates that the consumer will repay the outstanding balance shown on the periodic statement in three years if the consumer pays the estimated monthly payment each month for three years? [12 CFR 1026.7(b)(12)(ii)(D)] e. A toll-free telephone number where the consumer may obtain from the card issuer information about credit counseling services consistent with 12 CFR 1026.7(b)(12)(iv)? [12 CFR 1026.7(b)(12)(ii)(E)] **Note**: There are three exemptions from steps 33 and 34. The repayment disclosures in 12 CFR 1026.7(b)(12) that must be included on periodic statements do *not* apply to: charge card accounts that require payment of outstanding balances in full at the end of each billing cycle; a billing cycle immediately following two consecutive billing cycles in which the consumer paid the entire balance in full, had a zero outstanding balance, or had a credit balance; and a billing cycle where paying the minimum payment due for that billing cycle will pay the entire outstanding balance on the account for that billing cycle. [12 CFR 1026.7(b)(12)(v)]			
34. For periodic statement repayment disclosures required to be disclosed by 12 CFR 1026.7(b)(12), are the disclosures made in accordance with the format requirements of 12 CFR 1026.7(b)(13) and substantially similar to the samples provided in appendix G of Regulation Z? [12 CFR 1026.7(b)(13)]			
35. Does the card issuer provide (to the extent available from the U.S. Trustee or a bankruptcy administrator) through the disclosed toll-free telephone number the name, street address, telephone number, and Web site address for at least three organizations that have been approved by the U.S. Trustee or a bankruptcy administrator to provide credit counseling services in either the state in which the billing address for the account is located or the state specified by the consumer? [12 CFR 1026.7(b)(12)(iv)(A)]			

Worksheet 14: Periodic Statements for Open-End Credit			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
36. Is the credit counseling information discussed in step 35 updated annually for consistency with the information available from the U.S. Trustee or a bankruptcy administrator? [12 CFR 1026.7(b)(12)(iv)(B)]			
37. Has the creditor retained evidence of compliance with Regulation Z for two years after the date disclosures were required to be made or action was required to be taken? [12 CFR 1026.25(a)]			
Billing Rights Statement			
38. Is the billing rights statement provided at least once each calendar year, or with each periodic statement in a form similar to that in appendix G? [12 CFR 1026.9(a)]			

Worksheet 15:
High-Cost Mortgages
(12 CFR 1026.32)

Use this worksheet when you want to determine whether certain mortgage loans are subject to 12 CFR 1026.32. To complete, review applicable loan files and place a check in each applicable cell. For loans that are subject to 12 CFR 1026.32, use Worksheet #13 to document that disclosures were provided appropriately. You can insert an "NA" if the line item is not applicable. If used, this worksheet should be completed and made part of the work papers.

Use this worksheet to review audit work papers, evaluate bank policies, and perform expanded procedures and training, as appropriate. Only complete worksheet sections that specifically relate to the issue being reviewed.

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 15: High-Cost Mortgages [12 CFR 1026.32]	
Borrower's name	Loan number:

Coverage		
	Yes	**No**
Is the transaction secured by the consumer's principal dwelling? [12 CFR 1026.2(a)(19), 12 CFR 1026.32(a)(1)]		
If the answer is no, STOP HERE. The transaction is not a high-cost mortgage.		
	Yes	**No**
Is the transaction		
1. a reverse mortgage transaction? [12 CFR 1026.32(a)(2)(i)]		
2. a transaction to finance the initial construction of a dwelling? [12 CFR 026.32(a)(2)(ii)]		
3. a transaction originated and financed by a housing finance agency? [12 CFR 1026.32(a)(2)(iii)]		
4. a transaction originated under the USDA's rural development Section 502 direct loan program? [12 CFR 1026.32(a)(2)(iv)]		
If the answer is yes to 1, 2, 3, or 4, STOP HERE. If no, continue to Test 1: APR.		

Test 1: APR		
A. Determine the APR for testing high-cost mortgage coverage. 1. For fixed-rate transactions, calculate the APR using the interest rate in effect on the date the interest rate for the transaction was set. 2. For transactions where the interest rate varies with an index, use the greater of the introductory interest rate (if any) or the fully-indexed rate (i.e., the interest rate that results from adding the maximum margin permitted at any time during the term of the transaction to the value of the index rate in effect on the date the interest rate for the transaction was set). 3. For transactions where the interest rate may or will vary other than in accordance with an index, such as in a step-rate loan, use the maximum rate that the applicant may pay during the term of the transaction. [12 CFR 1026.32(a)(3)]		
B. Determine the Average Prime Offer Rate (APOR). 1. Determine the APOR for a comparable transaction as of the last rate lock on the transaction. Determine the APOR for a HELOC by identifying the most closely comparable closed-end transaction. APOR tables are published at www.ffiec.gov/ratespread/aportables.htm. [12 CFR 1026.32(a)(1)(i) and comments 12 CFR 1026.32(a)(1)(i)-1 through -3]		
C. Add one of the following amounts to APOR (box B), as applicable. 1. 6.5 percentage points for most first-lien transactions; 2. 8.5 percentage points for first-lien transactions secured by personal property (e.g., manufactured housing titled as personal property, RVs, houseboats) if the loan amount is less than $50,000; or 3. 8.5 percentage points for subordinate-lien transactions [12 CFR 1026.32(a)(1)(i)(A)-(C)]		
	Yes	**No**
D. Is Box A greater than Box C?		
If yes, the transaction is a high-cost mortgage. If no, continue to Test 2: Points and Fees.		

Worksheet 15: High-Cost Mortgage (12 CFR 1026.32)		
Test 2: Points and Fees[a]		
Step 1: Identify all charges payable in connection with the transaction and known at or before consummation or account opening.		
A. Items included in the finance charge (12 CFR 1026.4(a) and (b)), except for the following: • Interest, including per-diem interest, and time-price differential. • All federal or state government-sponsored mortgage insurance premiums (MIP), e.g., up-front and annual FHA premiums, VA funding fees, and USDA guarantee fees. • All monthly or annual private mortgage insurance (PMI) premiums; • Up-front PMI premiums *if* the premiums are refundable on a prorated basis and the refund is automatically issued upon loan satisfaction. *But,* include any portion of the PMI premium that exceeds the up-front MIP for FHA loans. • Bona fide third-party charges not retained by the creditor, loan originator, or an affiliate of either, unless specifically required to be included under boxes A-H.[b] • Up to 1 or 2 bona fide discount points, if eligible.[c] [12 CFR 1026.32(b)(1)(i) (closed-end); 12 CFR 1026.32(b)(2)(i) (open-end)]		
Finance charge items	**Amount**	**Subtotals**
Origination charge		
Points (unless excluded as bona fide)		
Mortgage broker fee		
Application fee (if not charged to all applicants)		
Loan administration fee		
Rate-lock fee		
Commitment fee		
Underwriting fee		
Loan-level price adjustments (LLPA) (if paid up front)		
Non-refundable up-front PMI premiums in excess of up-front MIP for FHA loans		
Other fees included in the finance charge		
Subtotal		
B. Loan originator compensation. Include all compensation paid directly or indirectly by a consumer or creditor to a loan originator (12 CFR 1026.36(a)(1)) that can be attributed to the transaction at the time the rate is set, but exclude • payments by consumers to mortgage brokers that were counted under box A. • compensation paid by a creditor or mortgage broker to a loan originator employee. • compensation paid by a manufactured home retailer to its employee. [12 CFR 1026.32(b)(1)(ii) (closed-end); 12 CFR 1026.32(b)(2)(ii) (open-end)]		
Subtotal		

[a] Test 2, step 1, boxes A-F and I (i.e., calculating points and fees for closed-end transactions) and Test 2, step 2, box A (i.e., calculating total loan amount for closed-end transactions) are the same tests used for the points and fees calculation for qualified mortgages.

[b] Bona fide third-party charges not retained by the creditor or loan originator, or an affiliate of either, are excluded, unless these charges are included as PMI premiums, real estate-related fees, or credit-related insurance premiums. [12 CFR 1026.32(b)(1)(i)(D)]

[c] Discount points are bona fide if two conditions are met: (1) They must buy down the interest rate from the pre-discount rate, and (2) they must do so by an amount consistent with industry norms. The number of bona fide discount points that may be excluded depends on the pre-discount rate on the loan. Up to two bona fide discount points may be excluded if the interest rate before payment of those discount points did not exceed APOR by more than 1 percentage point. Up to one bona fide discount point may be excluded if the interest rate before payment of the discount point did not exceed APOR by more than 2 percentage points. [12 CFR 1026.32(b)(1)(i)(E)-(F); 12 CFR 1026.32(b)(3)]

C. Certain non-finance charges under 12 CFR 1026.4(c)(7). Include fees *only* if the amount of the fee is unreasonable, or the creditor receives direct or indirect compensation from the charge, or the charge is paid to an affiliate of the creditor. [12 CFR 1026.32(b)(1)(iii) (closed-end); 12 CFR 1026.32(b)(2)(iii) (open-end)]		
Title examination		
Title insurance		
Property survey		
Document preparation charge		
Notary and credit report		
Appraisal		
Fee for "initial" flood hazard determination		
Pest inspection		
Any other fees under 12 CFR 1026.4(c)(7)		
Subtotal		
D. Premiums or other charges for optional or required insurance payable at or before consummation or account opening [12 CFR 1026.32(b)(1)(iv) (closed-end); 12 CFR 1026.32(b)(2)(iv) (open-end)]		
Credit life		
Credit disability		
Credit unemployment		
Credit property		
Any other life, accident, health, or loss-of-income insurance (if creditor is a beneficiary)		
Debt cancellation or suspension		
Subtotal		
E. Maximum prepayment penalty [12 CFR 1026.32(b)(1)(v) (closed-end); 12 CFR 1026.32(b)(2)(v) (open-end)]		
Subtotal		
F. For a refinance transaction with the current holder, its servicer, or an affiliate of either, prepayment penalty paid in connection with terminating prior transaction [12 CFR 1026.32(b)(1)(vi) (closed-end); 12 CFR 1026.32(b)(2)(vi) (open-end)]		
Subtotal		
G. For open-end transactions, participation fees payable at or before account opening [12 CFR 1026.32(b)(2)(vii)]		
Subtotal		
H. For open-end transactions, per-transaction fee charged for drawing on credit line (assume at least one) [12 CFR 1026.32(b)(2)(viii)]		
Subtotal		
I. Total points and fees: Add subtotals for A-F (closed-end) or A-H (open-end)		

Test 2: Points and Fees (continued)		
Step 2: Determine the total loan amount. [12 CFR 1026.32(b)(4)]		
A. Closed-end transaction 1. Determine the amount financed [12 CFR 1026.18(b)] • The full amount of principal repayable under the terms of the note or other loan contract • **Minus:** Prepaid finance charges [12 CFR 1026.2(a)(23)] • **Equals:** Amount financed 2. Deduct from the amount financed costs that are included in points and fees under Step 1, boxes C, D, or F, and that are financed by the creditor Total loan amount (1 minus 2)		
B. Open-end transaction Credit limit for the plan when the account is opened		
Step 3: Perform high-cost fee calculation.		
Determine which points and fees threshold applies according to the note amount (threshold cutoffs are adjusted annually for inflation (use the dollar amount corresponding to the year of origination or account opening)) [12 CFR 1026.32(a)(1)(ii)(A)-(B)]		
Transactions for $20,000 or more (2014)		
A. Calculate 5 percent of the total loan amount (Step 2, box A (closed-end) or box B (open-end))		
B. Total points and fees (Step 1, box I)		
	Yes	**No**
C. Does box B exceed box A?		
Transactions for less than $20,000 (2014)		
A. Calculate 8 percent of the total loan amount (Step 2, box A (closed-end) or box B (open-end))		
B. Annually adjusted dollar amount [12 CFR 1026.32(a)(1)(ii)(B)] **2014:** $1,000 (use the dollar amount corresponding to the year of origination or account opening)		
C. Total points and fees (Step 1, box I)		
	Yes	**No**
D. Does box C exceed the lesser of box A or box B?		
If yes, the transaction is a high-cost mortgage. If no, continue to Test 3: Prepayment Penalty.		

Test 3: Prepayment Penalty		
	Yes	**No**
Step 1: Determine whether the transaction has a prepayment penalty. [12 CFR 1026.32(a)(1)(iii); 12 CFR 1026.32(b)(6)(i)-(ii) (definition)]		
If no, STOP HERE, the transaction is not a high-cost mortgage. If yes, continue to Step 2.		
Step 2: Determine the amount and duration of any prepayment penalty.[d]		
A. Can prepayment penalties be imposed for longer than 36 months after consummation or account opening?		
B. Can prepayment penalties exceed 2 percent of the amount prepaid?		
If no, the transaction is not a high-cost mortgage. If yes, the transaction is a high-cost mortgage and is in violation of the prohibition against prepayment penalties for high-cost mortgages. [12 CFR 1026.32(d)(6)]		

[d] If the creditor used an accounting method whereby it kept unearned interest charged for any period between payoff and the end of the month, this would be a prepayment penalty under the rule. In this case, the maximum prepayment penalty would be the maximum amount of interest that could be charged for the "phantom" (post-payoff) accrual period. For this purpose, the examiner would need to assume that the consumer makes the final payoff on the day of the month that yields the longest period of post-payoff interest that could be charged under the terms of the credit contract and is charged interest for the entire month, and that amount would be the maximum unearned interest prepayment penalty.

Worksheet 16:
Special Credit Card Rules Review

Use for all card issuers that open credit card accounts under an **open-end (not home-secured) consumer credit plan**. To complete, review applicable policies, practices, notices, agreements, and transactions, as applicable, and place a check in each applicable box. Use this worksheet to review audit work papers, evaluate bank policies, and perform expanded procedures and training, as appropriate. Only complete worksheet sections that specifically relate to the issue being reviewed, evaluated, or tested, and retain those completed sections in the work papers.

When reviewing audit or evaluating bank policies, a "no" answer indicates a possible exception and deficiency and should be explained in the work papers. When performing expanded procedures, a "no" answer indicates a violation and should be explained in the work papers. If a line item is not applicable within the area you are reviewing, indicate "NA."

Underline the applicable use: Audit Bank Policies Expanded Procedures

Worksheet 16: Special Credit Card Rules Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
Ability to Make Required Minimum Payments			
1. Does the card issuer not open a credit card account for a consumer, or increase any credit limit applicable to such account, unless the card issuer considers the consumer's ability to make the required minimum periodic payments under the terms of the account based on the consumer's income or assets and current obligations? [12 CFR 1026.51(a)(1)(i)]			
2. Does the card issuer establish and maintain reasonable written policies and procedures to consider the consumer's ability to make the required minimum payments based on the consumer's income or assets and current obligations; and do these policies and procedures include treating any income and assets to which the consumer has a reasonable expectation of access as the consumer's income or assets, or limiting consideration of the consumer's income or assets to the consumer's independent income and assets? Further, do the policies and procedures include a consideration of at least one of the following: a. The ratio of debt obligations to income? b. The ratio of debt obligations to assets? c. The income the consumer will have after paying debt obligations? [12 CFR 1026.51(a)(1)(ii)]			
3. Does the card issuer not issue a credit card to a consumer who does not have any income or assets; and does the creditor not issue a credit card without reviewing any information about a consumer's income or assets, and current obligations? [12 CFR 1026.51(a)(1)(ii)]			

Worksheet 16: Special Credit Card Rules Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
4. Does the card issuer use a reasonable method for estimating the minimum periodic payments the consumer would be required to pay under the terms of the account? [12 CFR 1026.51(a)(2)(i)]			
5. Does the card issuer's estimate of the minimum periodic payment use the following method to receive the benefit of the safe harbor? a. The card issuer assumes utilization, from the first day of the billing cycle, of the full credit line that the issuer is considering offering to the consumer? b. The card issuer uses a minimum payment formula employed by the issuer for the product the issuer is considering offering to the consumer or, in the case of an existing account, the minimum payment formula that currently applies to that account, provided that i. if the applicable minimum payment formula includes interest charges, the card issuer estimates those charges using an interest rate that the issuer is considering offering to the consumer for purchases or, in the case of an existing account, the interest rate that currently applies to purchases? ii. if the applicable minimum payment formula includes mandatory fees, the card issuer must assume that such fees have been charged to the account? [12 CFR 1026.51(a)(2)(ii)]			
6. If the card issuer opens a credit card account for a consumer younger than 21 years old, does the issuer require that such consumers a. submit a written application b. possess an independent ability to make the required minimum periodic payments on this credit card or provide a signed agreement of a cosigner, guarantor, or joint applicant who is at least 21 years old who will be either secondarily liable for any debt on the account incurred by the consumer before the consumer has attained the age of 21 or jointly liable for any debt on the account, and financial information indicating such cosigner, guarantor, or joint applicant has the ability to make the required minimum periodic payments on such debts, consistent with 12 CFR 1026.51(a)? [12 CFR 1026.51(b)(1)]			
7. If a credit card account has been opened for a consumer less than 21 years old pursuant to 12 CFR 1026.51(b)(1), does the issuer not increase the credit limit before the consumer attains the age of 21 unless at the time of the contemplated increase, the consumer has an independent ability to make the required minimum periodic payments on the increased limit consistent with 12 CFR 1026.51(b)(i); or a cosigner, guarantor, or joint applicant who is at least 21 years old agrees in writing to assume liability on the increase (either secondarily liable for any account debt incurred before the consumer becomes 21 or jointly liable with the consumer) consistent with 12 CFR 1026.51(b)(1)(ii)? [12 CFR 1026.51(b)(2)] **Note**: If a credit card account was opened pursuant to 12 CFR 1026.51(b)(1)(ii), the cosigner, guarantor, or joint applicant who assumed liability at account opening must agree in writing to assume liability on the increase.			
Limitations on Fees			
8. During the first year after the opening of a credit card account, did the card issuer refrain from requiring the consumer to pay covered fees in excess of 25 percent of the credit limit during the first year after account opening? [12 CFR 1026.52(a)] **Note**: An account is considered opened no earlier than the date on which the account may first be used by the consumer to engage in transactions.			

Worksheet 16: Special Credit Card Rules Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
9. Does the card issuer refrain from imposing a fee for violating the terms or other requirements of a credit card account under an open-end (not home-secured) consumer credit plan, unless the dollar amount of the fee is consistent with 12 CFR 1026.52(b)(1) and (b)(2)? [12 CFR 1026.52(b)]			
10. If the issuer relies on the cost-determination review to impose a fee for a particular violation (e.g., late payment), has the issuer a. determined that the fee represents a reasonable proportion of the total costs incurred by the issuer as a result of that type of violation? b. reevaluated this determination at least once every 12 months? c. imposed a lower fee within 45 days after completing the reevaluation if the result of the reevaluation indicates that a lower fee represents a reasonable proportion of the total costs incurred by the issuer as a result of that type of violation? d. complied with the notice requirements of 12 CFR 1026.9, before imposing a higher fee, if the result of the reevaluation indicates that a higher fee represents a reasonable proportion of the total costs incurred by the issuer as a result of that type of violation? [12 CFR 1026.52(b)(1)(i)] **Note:** Refer to the commentary for 12 CFR 1026.52(b)] for a list of factors to be considered in the cost determination review by the issuer.			
11. If the issuer is relying on the safe harbor fee provision, has the issuer refrained from imposing a fee for a particular violation (i.e., late payment), as applicable, in excess of the regulatory limits a. of $26.00? [12 CFR 1026.52(b)(1)(ii)(A)] b. of $37.00 if the card issuer previously imposed a fee pursuant to 12 CFR 1026.52(b)(1)(ii)(A) for a violation of the same type that occurred during the same billing cycle or one of the next six billing cycles? [12 CFR 1026.52(b)(1)(ii)(B)] c. of 3 percent of the delinquent balance on a charge card account that requires payment of outstanding balances in full at the end of each billing cycle if the card issuer has not received the required payment for two or more consecutive billing cycles? [12 CFR 1026.52(b)(1)(ii)(C)] **Note:** The amounts in a and b, above, will be adjusted annually by the CFPB to the extent that changes in the CPI warrant changes.			
12. Has the card issuer refrained from imposing a fee for violating the terms or other requirements of a credit card account under an open-end (not home-secured) consumer credit plan that exceeds the dollar amount associated with the violation? [12 CFR 1026.52(b)(2)(i)(A)]			
13. Has the card issuer refrained from imposing a fee for violating the terms or other requirements of a credit card account under an open-end (not home-secured) consumer credit plan when there is no dollar amount associated with the violation? [12 CFR 1026.52(b)(2)(i)(B)] **Note:** There is no dollar amount associated with the following violations: transactions that the card issuer declines to authorize; account inactivity; and the closure or termination of an account. [12 CFR 1026.52(b)(2)(i)(B)]			
14. Has the card issuer refrained from imposing more than one fee for violating the terms or other requirements of a credit card account under an open-end (not			

Worksheet 16: Special Credit Card Rules Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
home-secured) consumer credit plan based on a single event or transaction? [12 CFR 1026.52(b)(2)(ii)]			
Allocation of Payments in Excess of the Minimum			
15. When a consumer makes a payment in excess of the required minimum periodic payment (other than deferred interest or similar programs), does the card issuer allocate the excess amount first to the balance with the highest APR, and any remaining portion to the other balances in descending order based on the applicable APR? [12 CFR 1026.53(a)]			
16. For balances on a credit card account subject to a deferred interest or similar program, did the card issuer allocate any amount paid by the consumer in excess of the required minimum periodic payment a. consistent with 12 CFR 1026.53(a), except that, during the two billing cycles immediately preceding expiration of the deferred interest period, the excess amount must have been allocated first to the balance subject to the deferred interest or similar program and any remaining portion allocated to any other balances consistent with 12 CFR 1026.53(a)? [12 CFR 1026.53(b)(1)(i)] or b. at the card issuer's option, in the manner requested by the consumer? [12 CFR 1026.53(b)(1)(ii)] **Note:** When a balance on a credit card account is secured, the card issuer may, at its option, allocate any amount paid by the consumer in excess of the required minimum periodic payment to that balance if requested by the consumer. [12 CFR 1026.53(b)(2)]			
Loss of a Grace Period			
17. Did the card issuer refrain from imposing finance charges as a result of the loss of a grace period on a credit card account based on balances for days in billing cycles that precede the most recent billing cycle or any portion of a balance subject to a grace period that was repaid before the expiration of the grace period? [12 CFR 1026.54(a)] **Note:** 12 CFR 1026.54(a) does not apply to adjustments to finance charges as a result of the resolution of a dispute under 12 CFR 1026.12 or 12 CFR 1026.13 or adjustments to finance charges as a result of the return of a payment.			
Limitations on Increasing APR, Fees, and Charges			
18. Unless one of the following exceptions applies, did the card issuer not increase an APR or fee or charge required to be disclosed under 12 CFR 1026.6(b)(2)(ii) (example: an annual fee), (b)(2)(iii) (fixed finance charge or minimum interest charge), or (b)(2)(xii) (fee for required insurance, debt cancellation, or debt suspension coverage)? [12 CFR 1026.55(a)] **Exceptions:** Temporary rate, fee, or charge; variable rate; advance notice; delinquency; workout and temporary hardship arrangement; and the SCRA. [12 CFR 1026.55(b)] **Note:** If a card issuer promotes the waiver or rebate of finance charges because of periodic interest rate or fees or charges covered by 12 CFR 1026.55 and applies the waiver or rebate to a credit card account under an open-end (not home-secured) consumer credit plan, any cessation of the waiver or rebate on that account constitutes an increase in an APR, fee, or charge for purposes of 12 CFR 1026.55. [12 CFR 1026.55(e)]			
19. If the temporary rate exception applies, did the card issuer			

Worksheet 16: Special Credit Card Rules Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
a. upon the expiration of the specified period, not apply an APR, fee, or charge to transactions that occurred before the period that exceeds the APR, fee, or charge that applied to those transactions before the period? b. after providing the notice required by 12 CFR 1026.9(c), not apply an APR, fee, or charge to transactions that occurred within 14 days after provision of the notice that exceeds the APR, fee, or charge that applied to that category of transactions before provision of the notice? c. not apply an APR, fee, or charge to transactions that occurred during the period that exceeds the increased APR, fee, or charge disclosed pursuant to 12 CFR 1026.55(b)(1)(i)? [12 CFR 1026.55(b)(1)ii)] **Note**: To assess whether the temporary rate, fee, or charge exception applies, determine whether the card issuer increased the APR, fee, or charge upon the expiration of a specified period of six months or longer; and before the commencement of that period, the card issuer disclosed in writing to the consumer, in a clear and conspicuous manner, the length of the period and the APR, fee, or charge that would apply after expiration of the period. [12 CFR 1026.55(b)(1)(i)]			
20. If the variable rate exception applies, did the card issuer not increase an APR unless the increase in the APR is due to an increase in an index that is not under the card issuer's control and is available to the general public? [12 CFR 1026.55(b)(2)] **Note:** For purposes of qualifying under this exception, an index is considered under the card issuer's control if the card issuer applies a minimum rate or floor below which the rate cannot decrease. Because there is no disadvantage to consumers, however, issuers are not prevented from setting a maximum rate or ceiling.			
21. If the advance notice exception applies, did the card issuer comply with the notice requirements of 12 CFR 1026.9 and a. not apply that increased APR, fee, or charge to transactions that occurred before provision of the notice required by 12 CFR 1026.9(b)? b. not apply the increased APR, fee, or charge to transactions that occurred before or within 14 days after provision of the notice required by 12 CFR 1026.9(c) or (g)? c. not increase the APR, fee, or charge during the first year after the account is opened, while the account is closed, or while the consumer cannot use the account for new transactions? [12 CFR 1026.55(b)(3)]			
22. If the delinquency exception applies, did the card issuer disclose in a clear and conspicuous manner in the required notice a statement of the reason for the increase, and the fact that the increase will cease to apply if the card issuer receives six consecutive required minimum periodic payments on or before the payment due date, beginning with the first payment due following the effective date of the increase? [12 CFR 1026.55(b)(4)] **Note:** To assess whether the delinquency exception applies, determine whether the card issuer did not receive the consumer's required minimum periodic payment within 60 days after the due date.			

Worksheet 16: Special Credit Card Rules Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
23. If the delinquency exception applies and the card issuer received six consecutive required minimum periodic payments on or before the payment due date beginning with the first payment due following the effective date of the increase, did the card issuer reduce any APR, fee, or charge (increased pursuant to the delinquency exception) to the original APR, fee, or charge that applied before the increase with respect to transactions that occurred before or within 14 days after provision of the required notice? [12 CFR 1026.55(b)(4)(ii)]			
24. If the workout and temporary hardship arrangement exception applies, before commencement of the arrangement (except as provided in 12 CFR 1026.9(c)(2)(v)(D)) did the card issuer provide the consumer with a clear and conspicuous written disclosure of the terms of the arrangement (including any increases due to the completion or failure of the arrangement); and upon the completion or failure of the arrangement, did the card issuer not apply to any transactions that occurred before commencement of the arrangement an APR, fee, or charge that exceeds the APR, fee, or charge that applied to those transactions before commencement of the arrangement? [12 CFR 1026.55(b)(5)]			
25. If the SCRA exception applies, did the card issuer increase the APR, fee, or charge only after 50 USC app. 527 or a similar federal or state statute or regulation no longer applied; and did the issuer not apply to any transactions that occurred before the decrease an APR, fee, or charge that exceeded the APR, fee, or charge that applied to those transactions before the decrease? [12 CFR 1026.55(b)(6)]			
26. For protected balances (the amount owed for a category of transactions to which an increased APR, fee, or charge disclosed under 12 CFR 1026.6(b)(2)(ii), (b)(2)(iii), or (b)(2)(xii) cannot be applied after such APR, fee, or charge has been increased per 12 CFR 1026.55(b)(3)), did the card issuer refrain from requiring repayment using a method that is less beneficial to the consumer than one of the following methods: a. The method of repayment for the account before the effective date of the increase? b. An amortization period of not less than five years, beginning no earlier than the effective date of the increase? c. A required minimum periodic payment that includes a percentage of the balance that is equal to no more than twice the percentage required before the effective date of the increase? [12 CFR 1026.55(c)]			
Requirements for Over-the-Limit Transactions			
27. Does the card issuer provide an oral, electronic, or written over-the-limit notice segregated from all other information describing the consumer's right to consent to the payment of an over-the-limit transaction and provide a reasonable opportunity for the consumer to affirmatively consent to the card issuer's payment of such transactions before assessing any over-the-limit fee or charge on a consumer's account? [12 CFR 1026.56(b)(1)(i), (b)(1)(ii), and (d)(1)(i)]			
28. Does the card issuer obtain the consumer's affirmative consent, and if a consumer consents to the card issuer's payment of any over-the-limit transaction by oral or electronic means, does the card issuer provide the required written notice describing the consumer's right to consent immediately before obtaining that consent? [12 CFR 1026.56(b)(1)(iii), (d)(1)(ii)]			

Worksheet 16: Special Credit Card Rules Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
29. Does the card issuer confirm the consumer's consent in writing (or if the consumer agrees, electronically) no later than the first periodic statement sent after the consumer has consented to the card issuer's payment of over-the-limit transactions? [12 CFR 1026.56(b)(1)(iv), (d)(2)]			
30. Is the written notice providing the consumer notice of the right to revoke consent following the assessment of an over-the-limit fee or charge provided on the front of any page of each periodic statement that reflects the assessment of an over-the-limit fee or charge on a consumer's account? [12 CFR 1026.56(d)(3)]			
31. Does the oral, written, or electronic "opt-in" notice include all of the following applicable items (and not any information not specified in or otherwise permitted): a. The dollar amount of any fees or charges assessed by the card issuer on a consumer's account for an over-the-limit transaction? b. Any increased APR(s) that may be imposed on the account as a result of an over-the-limit transaction? c. An explanation of the consumer's right to affirmatively consent to the card issuer's payment of over-the-limit transactions, including the method(s) by which the consumer may consent? [12 CFR 1026.56(e)(1)]			
32. Does the written notice informing the consumer of the right to revoke consent following the assessment of an over-the-limit fee or charge describe that right, including the method(s) by which the consumer may revoke consent? [12 CFR 1026.56(e)(2)]			
33. If two or more consumers are jointly liable on a credit card account, does the card issuer treat the affirmative consent of any of the joint consumers as affirmative consent for that account and does the card issuer treat a revocation of consent by any of the joint consumers as revocation of consent for that account? [12 CFR 1026.56(f)]			
34. If the credit limit was exceeded during the billing cycle, does the card issuer not impose more than one over-the-limit fee or charge on a consumer's credit card account per billing cycle; and does the card issuer not impose an over-the-limit fee or charge on the consumer's credit card account for more than three billing cycles for the same over-the-limit transaction where the consumer has not reduced the account balance below the credit limit by the payment due date for either of the last two billing cycles? [12 CFR 1026.56(j)(1)(i)] **Note:** This prohibition against imposing an over-the-limit fee or charge in more than three billing cycles for the same over-the-limit transaction(s) does not apply if another over-the-limit transaction occurs during either of the last two billing cycles. [12 CFR 1026.56(j)(1)(ii)]			
35. Does the card issuer not impose an over-the-limit fee or charge solely because of the card issuer's failure to promptly replenish the consumer's available credit following the crediting of the consumer's payment? [12 CFR 1026.56(j)(2)]			
36. Does the card issuer not condition the amount of a consumer's credit limit on the consumer affirmatively consenting to the card issuer's payment of over-the-limit transactions if the card issuer assesses a fee or charge for such service? [12 CFR 1026.56(j)(3)]			
37. Does the card issuer not impose an over-the-limit fee or charge for a billing cycle if a consumer exceeds a credit limit solely because of fees or interest charged by the card issuer (defined as charges imposed as part of the plan under			

Worksheet 16: Special Credit Card Rules Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
12 CFR 1026.6(b)(3)) to the consumer's account during that billing cycle? [12 CFR 1026.56(j)(4)]			
Reporting Rules for College Credit Card Agreements			
38. If the credit card issuer was a party to one or more college credit card agreements in effect at any time during a calendar year, did the card issuer submit to the CFPB an annual report regarding those agreements in the form and manner prescribed by the CFPB? [12 CFR 1026.57(d)(1)]			
39. Does the annual report include the following: a. Identifying information about the card issuer and the agreements submitted, including the issuer's name, address, and identifying number (such as an RSSD ID number or tax identification number)? b. A copy of any college credit card agreement to which the card issuer was a party that was in effect at any time during the period covered by the report? c. A copy of any memorandum of understanding in effect at any time during the period covered by the report between the card issuer and an institution of higher education or affiliated organization that directly or indirectly relates to the college credit card agreement or that controls or directs any obligations or distribution of benefits between any such entities? d. The total dollar amount of any payments pursuant to a college credit card agreement from the card issuer to an institution of higher education or affiliated organization during the period covered by the report, and the method or formula used to determine such amounts? e. The total number of credit card accounts opened pursuant to any college credit card agreement during the period covered by the report? f. The total number of credit card accounts opened pursuant to any such agreement that were open at the end of the period covered by the report? [12 CFR 1026.57(d)(2)]			
40. If the card issuer is subject to reporting, does the card issuer submit its annual report for each calendar year to the CFPB by the first business day on or after March 31 of the following calendar year? [12 CFR 1026.57(d)(3)]			
Internet Posting of Credit Card Agreements			
41. Unless it meets one of the exceptions in the regulation, does the card issuer make quarterly submissions to the CFPB, in the form and manner specified by the CFPB, that contain a. identifying information about the card issuer and the agreements submitted, including the issuer's name, address, and identifying number (such as an RSSD ID number or tax identification number)? b. the credit card agreements that the card issuer offered to the public as of the last business day of the preceding calendar quarter that the card issuer has not previously submitted to the CFPB? c. any credit card agreement previously submitted to the CFPB that was amended during the preceding calendar quarter and that the card issuer offered to the public as of the last business day of the preceding calendar quarter as described in 12 CFR 1026.58(c)(3)? d. notification regarding any credit card agreement previously submitted to the CFPB that the issuer is withdrawing? [12 CFR 1026.58(c)(1)]			

Worksheet 16: Special Credit Card Rules Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
42. Did the card issuer make quarterly submissions to the CFPB no later than the first business day on or after January 31, April 30, July 31, and October 31 of each year? [12 CFR 1026.58(c)(1)]			
43. If a credit card agreement that previously has been submitted to the CFPB is amended and the card issuer offered the amended agreement to the public as of the last business day of the calendar quarter when the change became effective, did the card issuer submit the entire amended agreement to the CFPB, in the form and manner specified by the CFPB, by the first quarterly submission deadline after the last day of the calendar quarter in which the change became effective? [12 CFR 1026.58(c)(3)]			
44. If a card issuer no longer offers to the public a credit card agreement that previously has been submitted to the CFPB, did the card issuer notify the CFPB by the first quarterly submission deadline after the last day of the calendar quarter in which the issuer ceased to offer the agreement? [12 CFR 1026.58(c)(4)]			
45. If an issuer that previously qualified (had fewer than 10,000 open credit card accounts) for the de minimis exception ceases to qualify, did the card issuer begin making quarterly submissions to the CFPB no later than the first quarterly submission deadline after the date as of which the issuer ceased to qualify? [12 CFR 1026.58(c)(5)(ii)]			
46. If a card issuer that did not previously qualify for the de minimis exception later qualified for the de minimis exception, did the card issuer continue to make quarterly submissions to the CFPB until the issuer notified the CFPB that it was withdrawing all agreements it previously submitted to the CFPB? [12 CFR 1026.58(c)(5)(iii)]			
47. If an agreement that previously qualified for the private label credit card exception (12 CFR 1026.58(c)(6)(i)) ceases to qualify, did the card issuer submit the agreement to the CFPB no later than the first quarterly submission deadline after the date as of which the agreement ceased to qualify? [12 CFR 1026.58(c)(6)(ii)]			
48. If an agreement that did not previously qualify for the private label credit card exception qualifies for the exception, did the card issuer continue to make quarterly submissions to the CFPB with respect to that agreement until the issuer notifies the CFPB that the agreement is being withdrawn? [12 CFR 1026.58(c)(6)(iii)]			
49. If an agreement that previously qualified for the product testing exception (12 CFR 1026.58(c)(7)(i)) ceases to qualify, did the card issuer submit the agreement to the CFPB no later than the first quarterly submission deadline after the date as of which the agreement ceased to qualify? [12 CFR 1026.58(c)(7)(ii)]			
50. If an agreement that did not previously qualify for the product testing exception qualifies for the exception, did the card issuer continue to make quarterly submissions to the CFPB with respect to that agreement until the issuer notifies the CFPB that the agreement is being withdrawn? [12 CFR 1026.58(c)(7)(iii)]			
51. Does each agreement submitted to the CFPB contain the provisions of the agreement and the pricing information in effect as of the last business day of the preceding calendar quarter? [12 CFR 1026.58(c)(8)(i)(A)]			
52. Does each agreement submitted to the CFPB exclude any personally identifiable information relating to any cardholder, such as name, address, telephone number, or account number? [12 CFR 1026.58(c)(8)(i)(B)]			
53. Is each agreement submitted to the CFPB presented in a clear and legible font? [12 CFR 1026.58(c)(8)(i)(D)]			

Worksheet 16: Special Credit Card Rules Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
54. For each agreement submitted to the CFPB, is the pricing information set forth in a single addendum to the agreement? [12 CFR 1026.58(c)(8)(ii)(A)]			
55. If pricing information varies from one cardholder to another depending on the cardholder's creditworthiness or state of residence or other factors, is the pricing information disclosed either by setting forth all the possible variations or by providing a range of possible variations? [12 CFR 1026.58(c)(8)(ii)(B)]			
56. If a rate included in the pricing information is a variable rate, did the issuer identify the index or formula used in setting the rate and the margin? [12 CFR 1026.58(c)(8)(ii)(C)]			
57. If rates vary from one cardholder to another, did the issuer disclose such rates by providing the index and the possible margins or range of margins? [12 CFR 1026.58(c)(8)(ii)(C)]			
58. Did the issuer refrain from providing provisions of the agreement or pricing information in the form of change-in-terms notices or riders (other than the pricing information addendum and the optional variable terms addendum)? [12 CFR 1026.58(c)(8)(iv)]			
59. Were changes in provisions or pricing information integrated into the text of the agreement, the pricing information addendum or the optional variable terms addendum, as appropriate? [12 CFR 1026.58(c)(8)(iv)]			
60. Does the card issuer post and maintain on its publicly available Web site the credit card agreements that the issuer is required to submit to the CFPB? [12 CFR 1026.58(d)(1)]			
61. With respect to an agreement offered solely for accounts under one or more private label credit card plans (and the issuer does not post and maintain the agreements on its publicly available Web site), does the issuer post and maintain the agreement on the publicly available Web site of at least one of the merchants where cards issued under each private label credit card plan with 10,000 or more open accounts may be used? [12 CFR 1026.58(d)(1)]			
62. Do the agreements posted pursuant to 12 CFR 1026.58(d) conform to the form and content requirements for agreements submitted to the CFPB specified in 12 CFR 1026.58(c)(8)? [12 CFR 1026.58(d)(2)]			
63. Are agreements that are posted in an electronic format readily usable by the general public? [12 CFR 1026.58(d)(3)]			
64. Are the agreements placed in a location on the issuer's Web site that is prominent and readily accessible by the public and accessible without submission of personally identifiable information? [12 CFR 1026.58(d)(3)]			
65. Does the card issuer update the agreements posted on its Web site at least as frequently as the quarterly schedule required for submission of agreements to the CFPB? [12 CFR 1026.58(d)(4)]			
66. For any open credit card account (i.e., the cardholder can obtain extensions or there is an outstanding balance on the account that has not been charged off), does the card issuer either a. post and maintain the cardholder's agreement on its Web site, or b. promptly provide a copy of the cardholder's agreement to the cardholder upon the cardholder's request? [12 CFR 1026.58(e)(1)]			

Worksheet 16: Special Credit Card Rules Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
Note: Card issuers may provide credit card agreements in electronic form under 12 CFR 1026.58(d) and (e) without regard to the consumer notice and consent requirements of section 101(c) of the E-Sign Act. [12 CFR 1026.58(f)]			
67. If the card issuer makes an agreement available upon request, does the issuer provide the cardholder with the ability to request a copy of the agreement both by a. using the issuer's Web site (such as by clicking on a clearly identified box to make the request), and b. calling a readily available telephone line the number for which is displayed on the issuer's Web site and clearly identified as to purpose? [12 CFR 1026.58(e)(1)(ii) and (e)(2)]			
68. If an issuer does not maintain a Web site from which cardholders can access specific information about their individual accounts, does the issuer make agreements available upon request by providing the cardholder with the ability to request a copy of the agreement by calling a readily available telephone line the number for which is a. displayed on the issuer's Web site and clearly identified as to purpose? b. included on each periodic statement sent to the cardholder and clearly identified as to purpose? [12 CFR 1026.58(e)(2)]			
69. Does the card issuer send to the cardholder or otherwise make available to the cardholder a copy of the cardholder's agreement in electronic or paper form no later than 30 days after the issuer receives the cardholder's request? [12 CFR 1026.58(e)(1)(ii) or (e)(2)]			
70. Do agreements posted on the card issuer's Web site or made available upon the cardholder's request conform to the form and content requirements for agreements submitted to the CFPB? [12 CFR 1026.58(e)(3)(i)]			
71. If the card issuer posts an agreement on its Web site or otherwise provides an agreement to a cardholder electronically, is the agreement posted or provided in an electronic format that is readily usable by the general public and placed in a location that is prominent and readily accessible to the cardholder? [12 CFR 1026.58(e)(3)(ii)]			
72. If agreements posted or otherwise provided contain personally identifiable information relating to the cardholder, such as name, address, telephone number, or account number, does the issuer take appropriate measures to make the agreement accessible only to the cardholder or other authorized persons? [12 CFR 1026.58(e)(3)(iii)]			
73. Do agreements posted or otherwise provided set forth the specific provisions and pricing information applicable to the particular cardholder? [12 CFR 1026.58(e)(3)(iv)]			

Worksheet 16: Special Credit Card Rules Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
74. For agreements posted or otherwise provided to the cardholder, are the provisions and pricing information complete and accurate as of a date no more than 60 days before a. the date on which the agreement is posted on the card issuer's Web site under 12 CFR 1026.58(e)(1)(i)? b. the date the cardholder's request is received under 12 CFR 1026.58(e)(1)(ii) or (e)(2)? [12 CFR 1026.58(e)(3)(iv)]			
Reevaluation of Rate Increases			
Note: 12 CFR 1026.59 does not apply to an increase in an APR that was previously decreased pursuant to 50 USC app. 527 (SCRA), provided the increase is made in accordance with 12 CFR 1026.55(b)(6), and to accounts that the issuer has charged off in accordance with loan-loss provisions. In addition, the required 12 CFR 1026.59(a)(1) review ceases in certain situations as described at 12 CFR 1026.59(f). 75. If a card issuer increases an APR that applies to a credit card account under an open-end (not home-secured) consumer credit plan, based on the credit risk of the consumer, market conditions, or other factors, or increased such an APR on or after January 1, 2009, and 45 days' advance notice of the APR increase is required pursuant to 12 CFR 1026.9(c)(2) or (g), has the card issuer evaluated the factors at 12 CFR 1026.59(d) and, based on its review of such factors, reduced the APR applicable to the consumer's account, as appropriate? [12 CFR 1026.59(a)(1)]			
76. If a card issuer is required to reduce the APR applicable to an account pursuant to 12 CFR 1026.59(a)(1), has the card issuer reduced the APR not later than 45 days after completion of the evaluation? [12 CFR 1026.59(a)(2)(i)] **Note:** Any reduction in an APR required pursuant to 12 CFR 1026.59(a)(1) of this section shall apply to any outstanding balances to which the increased APR per 12 CFR 1026.59(a)(1) has been applied and new transactions that occur after the effective date of the APR reduction that would otherwise have been subject to the increased APR.			
77. Does the card issuer have reasonable written policies and procedures in place to conduct the 12 CFR 1026.59(a)(1) review? [12 CFR 1026.59(b)]			
78. Does the card issuer conduct the 12 CFR 1026.59(a)(1) review at least once every six months after the APR increase? [12 CFR 1026.59(c)]			
79. Except for the first two 12 CFR 1026.59(a)(1) reviews for APR increases imposed between January 1, 2009, and February 21, 2010, did the card issuer review either of the factors on which the increase in an APR was originally based or the factors that the card issuer currently considers when determining the APRs applicable to similar new credit card accounts under an open-end (not home-secured) consumer credit plan? [12 CFR 1026.59(d)(1)]			

Worksheet 16: Special Credit Card Rules Review			
Product type:			
Name of borrower:			
Account number:			
	Yes	**No**	**NA**
80. When conducting the first two 12 CFR 1026.59(a)(1) reviews for APR increases imposed between January 1, 2009, and February 21, 2010, unless the APR increase subject to this review was based solely on factors specific to the consumer, such as a decline in the consumer's credit risk, the consumer's delinquency or default, or a violation of the terms of the account, did the issuer consider the factors that it currently considers when determining the APR applicable to similar new credit card accounts under an open-end (not home-secured) consumer credit plan? [12 CFR 1026.59(d)(2)]			
81. If an issuer increases an APR applicable to a consumer's account pursuant to 12 CFR 1026.55(b)(4) (60-day delinquency) and the APR is not subsequently reduced (after six consecutive on-time minimum payments), did the card issuer perform the 12 CFR 1026.59(a)(1) review and did the first such review occur no later than six months after the sixth payment due date following the effective date of the APR increase? [12 CFR 1026.59(e)] **Note:** The issuer is not required to perform the 12 CFR 1026.59(a)(1) review before the sixth payment due date after the effective date of the increase.			
82. If a card issuer that acquires credit card accounts from another issuer complies with 12 CFR 1026.59 by reviewing the factors described in 12 CFR 1026.59(d)(1)(i), does the issuer review the factors considered by the card issuer from which it acquired the accounts? [12 CFR 1026.59(g)(1)] **Note**: This does not apply if the card issuer performs the 12 CFR 1026.59(g)(2) review. [12 CFR 1026.59(g)]			
83. If, not later than six months after the acquisition of such accounts, a card issuer reviews all of the credit card accounts it acquired in accordance with the factors that it currently considers in determining the rates applicable to its similar new credit card accounts, has the card issuer conducted the 12 CFR 1026.59(a)(1) review for rate increases that are imposed as a result of this review, except as provided at 12 CFR 1026.59(g)(2)(iii),? [12 CFR 1026.59(g)(2)(i)] **Note:** Except as provided in 12 CFR 1026.59(g)(2)(iii), a card issuer that performs the 12 CFR 1026.59(g)(2) review is not required to conduct 12 CFR 1026.59(a)(1) reviews for any rate increases made before the card issuer's acquisition of such accounts. [12 CFR 1026.59(g)(2)(ii)]			
84. If, as a result of the card issuer's review of acquired portfolios, an account is subject to, or continues to be subject to, an increased rate as a penalty, or because of the consumer's delinquency or default, has the card issuer complied with the requirements at 12 CFR 1026.59(a), i.e., evaluated the factors at 12 CFR 1026.59(d) and made any applicable rate reductions? [12 CFR 1026.59(g)(2)(iii)]			
85. Has the creditor retained evidence of compliance with Regulation Z for two years after the date disclosures were required to be made or action was required to be taken? [12 CFR 1026.25(a)]			

Worksheet 17: Reimbursement Review

Use this worksheet to determine if there is noncompliance involving understated finance charges or understated APRs subject to reimbursement under the FFIEC Policy Guide on Reimbursement (policy guide). When verifying APR accuracy and reimbursement amounts, use the current version of the OCC's APRWin program, located in the applications section of your computer software (or download the program from occ.gov).

Worksheet 17: Reimbursement Review	
Procedure	**Date completed**
1. Document the date on which the administrative enforcement of the TILA policy guide would apply to closed-end credit for reimbursement purposes by determining the date of the preceding examination of any type. Preceding examination date: _____	
2. If the noncompliance involves indirect (third-party paper) disclosure errors and affected consumers have not been reimbursed, a. prepare comments on the need for improved internal controls for inclusion in the report of examination. b. notify your supervisory office for follow-up with the regulator that has primary responsibility for the original creditor.	
3. If the noncompliance involves direct credit, make an initial determination if the disclosure error resulted from a clear and consistent pattern or practice of violations, gross negligence, or a willful violation that was intended to mislead the consumer. Consider a. if the conduct appears to be grounded in a written or unwritten policy or established practice. b. if there is evidence of similar conduct by the bank in more than one transaction. **(Note:** More than one does not necessarily constitute a pattern or practice.) c. if there is a common source or cause within the bank's control. d. the relationship of the instances of noncompliance to one another (i.e., if they all occurred in the same area of the bank, in the same product line, or by one employee). e. the relationship of the number of instances of noncompliance to the bank's total activity. **(Note:** Depending on the circumstances, violations that involve only a small percentage of a bank's total activity could constitute a pattern or practice.)	
4. For violations determined to be a pattern or practice, gross negligence, or willful, perform the following steps: a. Calculate the reimbursement for the loans or accounts in an expanded sample of the identified population. b. Estimate the total impact on the population based on the expanded sample. c. Inform management that reimbursement may be necessary under the law and the policy guide, and discuss all substantive facts, including the sample loans and calculations. d. Inform management of the bank's options under sections 108 and 130 of the TILA for avoiding an OCC order to reimburse affected borrowers.	

Conclusions

Conclusion: The aggregate level of compliance risk is (low, moderate, or high).
The direction of compliance risk is (increasing, stable, or decreasing).

Objective: To determine, document, and communicate overall findings and conclusions regarding the examination of TILA.

1. Determine preliminary examination findings and conclusions and discuss with the examiner-in-charge (EIC), including

   - quantity of compliance risk.
   - quality of risk management.
   - aggregate level and direction of compliance risk.
   - overall risk in TILA.
   - violations and other concerns.

2. Discuss examination findings with bank management, including violations, recommendations, and conclusions about risks and risk management practices. If necessary, obtain commitments for corrective action.

3. Compose conclusion comments, highlighting any issues that should be included in the report of examination. If necessary, compose a matters requiring attention comment.

4. Provide final examination findings and conclusions to the EIC.

5. Update the OCC's information system and any applicable report of examination schedules or tables.

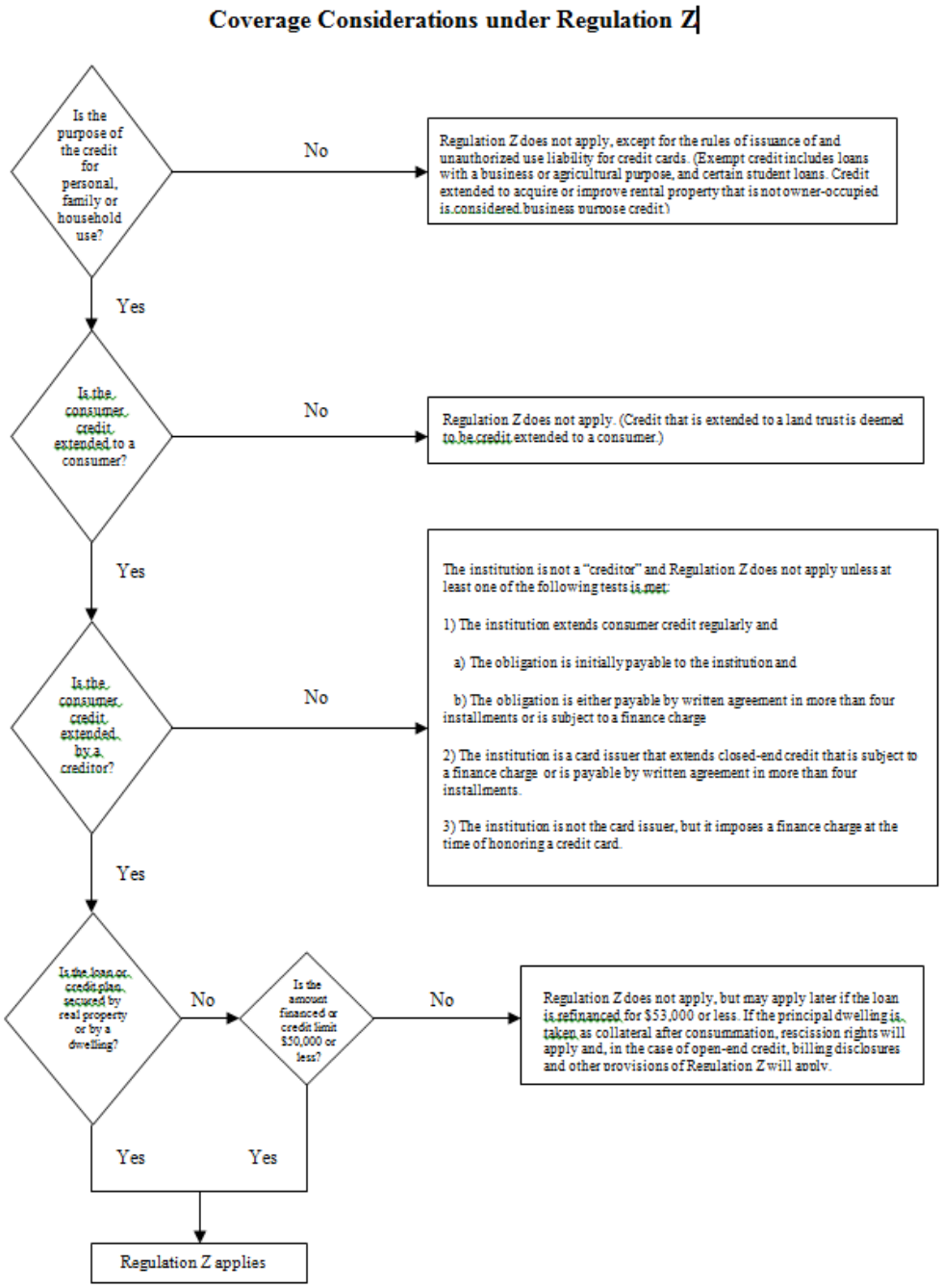
6. Write a memorandum specifically setting out what the OCC should do in the future to effectively supervise TILA, including time periods, staffing, and workdays required.

7. Update, organize, and reference work papers in accordance with OCC policy.

8. Ensure any paper or electronic media that contain sensitive bank or customer information are appropriately disposed of or secured.

Appendixes

Appendix A: Coverage Considerations Under Regulation Z



Note: Credit in excess of an annually adjusted threshold not secured by real property or by personal property used or expected to be used as the principal dwelling of the consumer is exempt from coverage. Before July 21, 2011, the threshold amount is $25,000; from July 21, 2011, through December 31, 2011, $50,000; from January 1, 2012, through December 31, 2012, $51,800; from January 1, 2013, through December 31, 2013, $53,000; from January 1, 2014, through December 31, 2014, $53,500; and from January 1, 2015, through December 31, 2015, $54,600.)

Appendix B: Finance Charge Chart

Instructions for the Finance Charge Chart

The finance charge initially includes any charge that is, or will be, connected with a specific loan. Charges imposed by third parties are finance charges if the creditor requires use of the third party. Charges imposed on the consumer by a settlement agent are finance charges only if the creditor requires the particular services for which the settlement agent is charging the borrower and the charge is not otherwise excluded from the finance charge.

Immediately below the finance charge definition, the chart presents five captions applicable to determining whether a loan-related charge is a finance charge.

The first caption is charges always included. This category focuses on specific charges given in the regulation or commentary as examples of finance charges.

The second caption, charges included unless conditions are met, focuses on charges that must be included in the finance charge unless the creditor meets specific disclosure or other conditions to exclude the charges from the finance charge.

The third caption, conditions, focuses on the conditions that need to be met if the charges under the second caption (i.e. the charges to the left of the conditions) are permitted to be excluded from the finance charge. Although most charges under the second caption may be included in the finance charge at the creditor's option, third-party charges and application fees (listed last under the third caption) must be excluded from the finance charge if the relevant conditions are met. However, inclusion of appraisal and credit report charges as part of the application fee is optional.

The fourth caption, charges not included, identifies fees or charges that are excluded from the finance charge under certain conditions. If the credit transaction is secured by real property or the loan is a residential mortgage transaction, the charges identified in the column, if they are bona fide and reasonable in amount, must be excluded from the finance charge. For example, if a consumer loan is secured by a vacant lot or commercial real estate, any appraisal fees connected with the loan must not be included in the finance charge.

The fifth caption, charges never included, lists examples of specific charges that the regulation does not include in a loan's finance charge (e.g., fees for unanticipated late payments).

Finance Charge Chart

Finance charge = dollar cost of consumer credit
It includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as a condition of or incident to the extension of credit.

Charges always included

- Interest
- Transaction fees
- Loan origination fees (consumer points)
- Credit guarantee insurance premiums
- Charges imposed on the creditor for purchasing the loan, which are passed on to the consumer
- Discounts for inducing payment by means other than credit
- Mortgage broker fees
- Other examples: fee for preparing TILA disclosures; real estate construction loan inspection fees; fees for post-consummation tax or flood service policy; required credit life insurance charges

Charges included unless conditions are met → **Conditions** (any loan)

Charges included unless conditions are met	Conditions (any loan)
Premiums for credit life, A&H, or loss of income insurance	Insurance not required, disclosures are made, and consumer authorizes
Debt cancellation fees	Coverage not required, disclosures are made, and consumer authorizes
Premiums for property or liability insurance	Consumer selects insurance company, and disclosures are made
Premiums for vendor's single interest insurance	Insurer waives right of subrogation, consumer selects insurance company, and disclosures are made
Security interest charges (filing fees), insurance in lieu of filing fees, and certain notary fees	The fee is for lien purposes, prescribed by law, payable to a third public official, and itemized and disclosed
Charges imposed by third parties	Use of the third party is not required to obtain loan, and creditor does not retain the charge
Charges imposed by third-party closing agents	Creditor does not require and does not retain the fee for the particular service
Appraisal and credit report fees	Application fees, if charged to all applicants, are not finance charges. Application fees may include appraisal or credit report fees.

Charges not included if bona fide and reasonable in amount (residential mortgage transactions and loans secured by real estate)

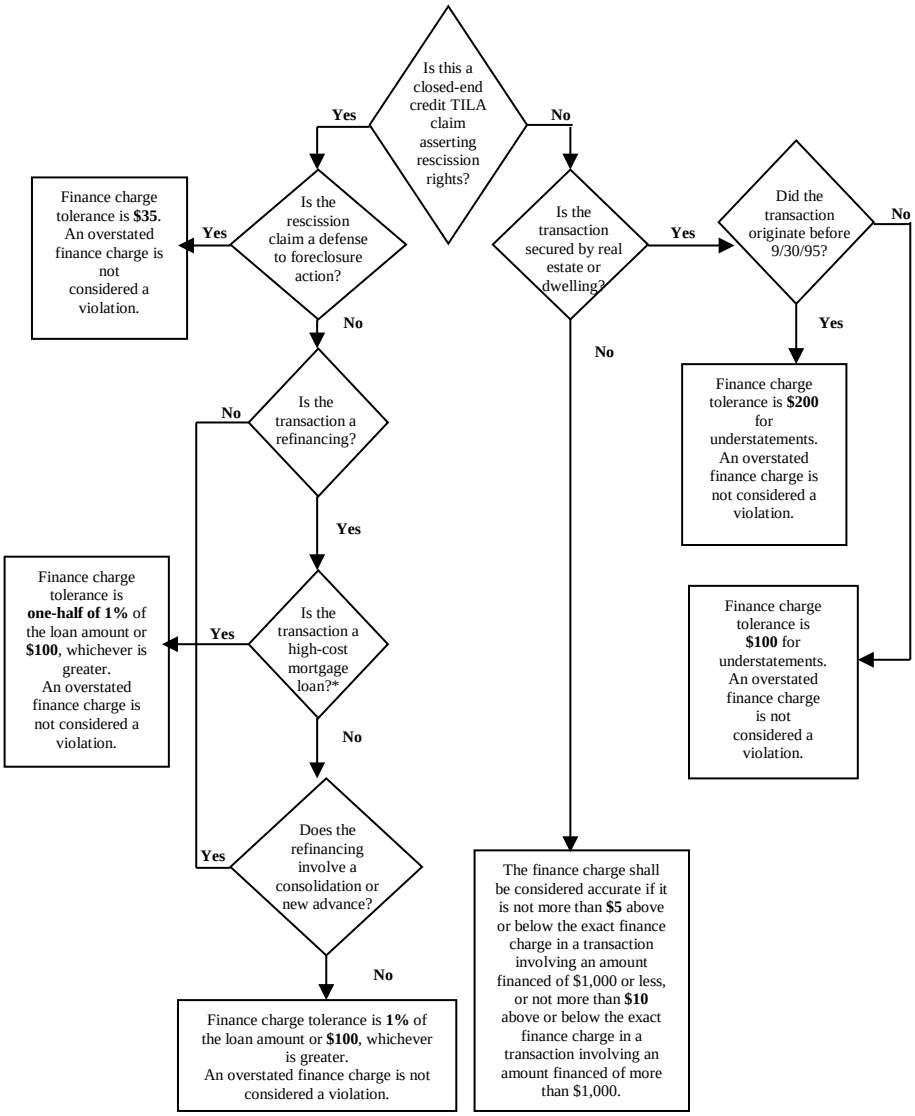
- Fees for title insurance, title examination, property survey, etc.
- Fees for preparing loan documents, mortgages, and other settlement documents
- Amounts required to be paid into escrow, if not otherwise included in the finance charge
- Notary fees
- Pre-consummation flood and pest inspection fees
- Appraisal and credit report fees

Charges never included

- Charges payable in a comparable cash transaction
- Fees for unanticipated late payments
- Overdraft fees not agreed to in writing
- Seller's points
- Participation or membership fees
- Discount offered by the seller to induce payment by cash or other means not involving the use of a credit card
- Interest forfeited as a result of interest reduction required by law
- Charges absorbed by the creditor as a cost of doing business

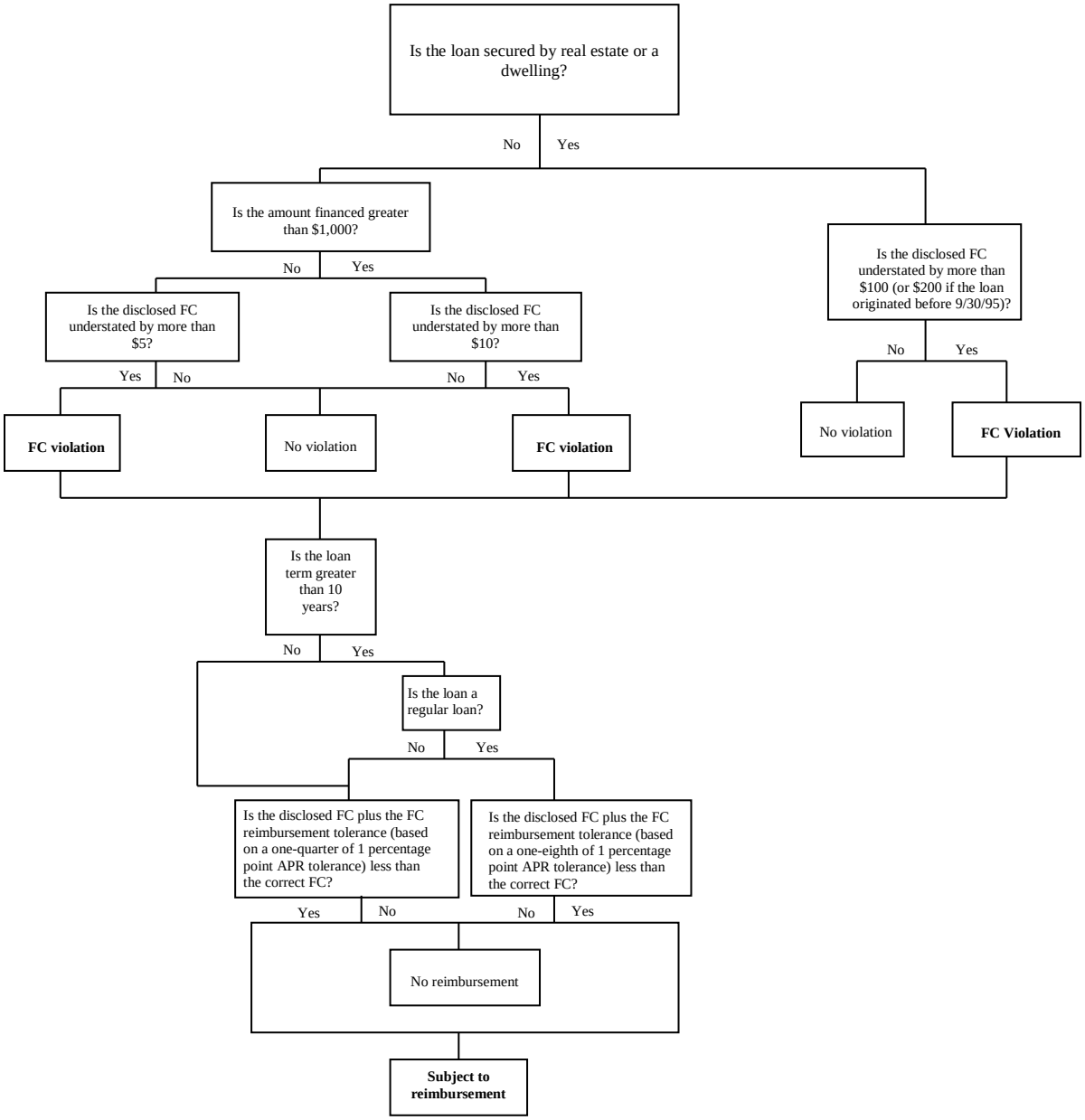
Appendix C: Finance Charge Tolerances Charts

Closed-End Credit: Finance Charge Accuracy Tolerances

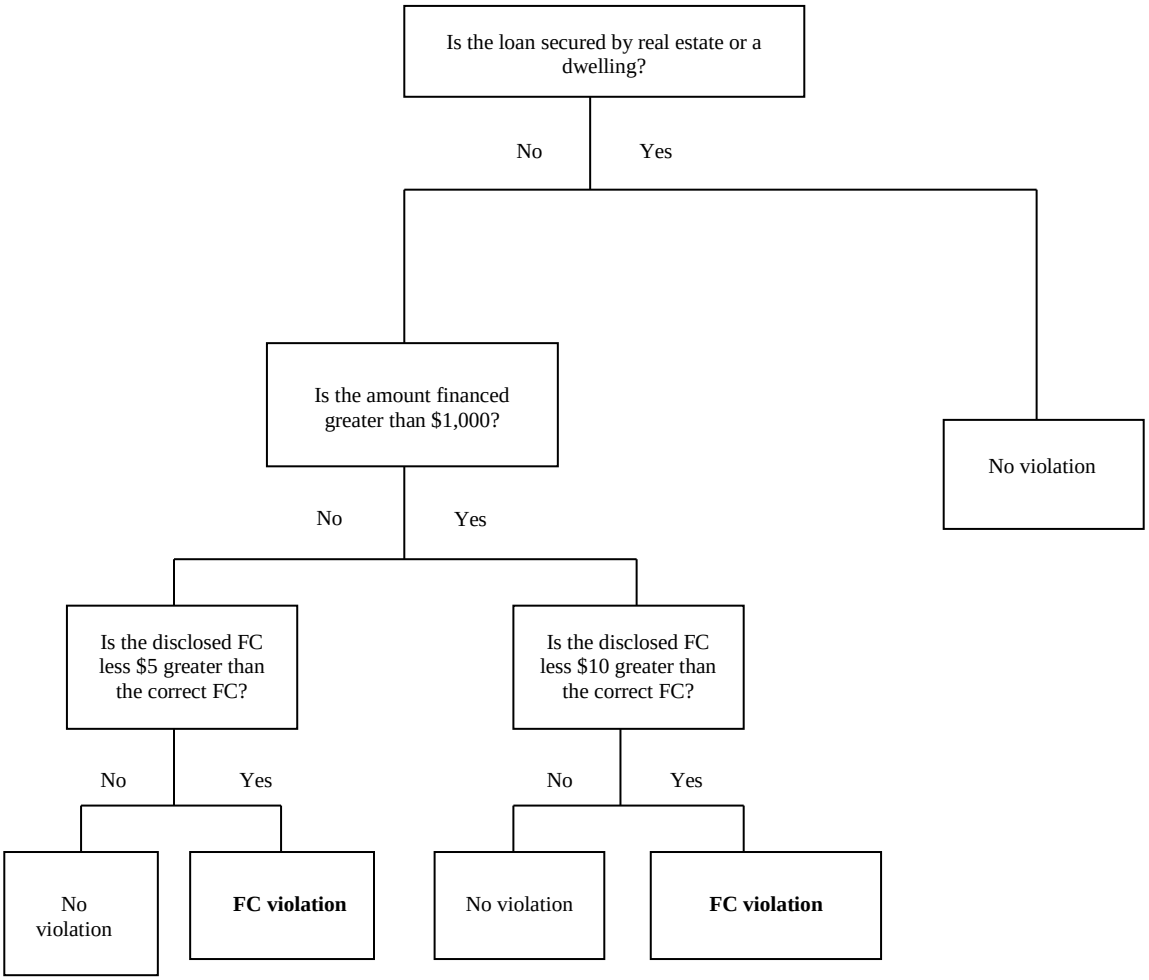


* See 15 USC 1602(bb) and 12 CFR 1026.32

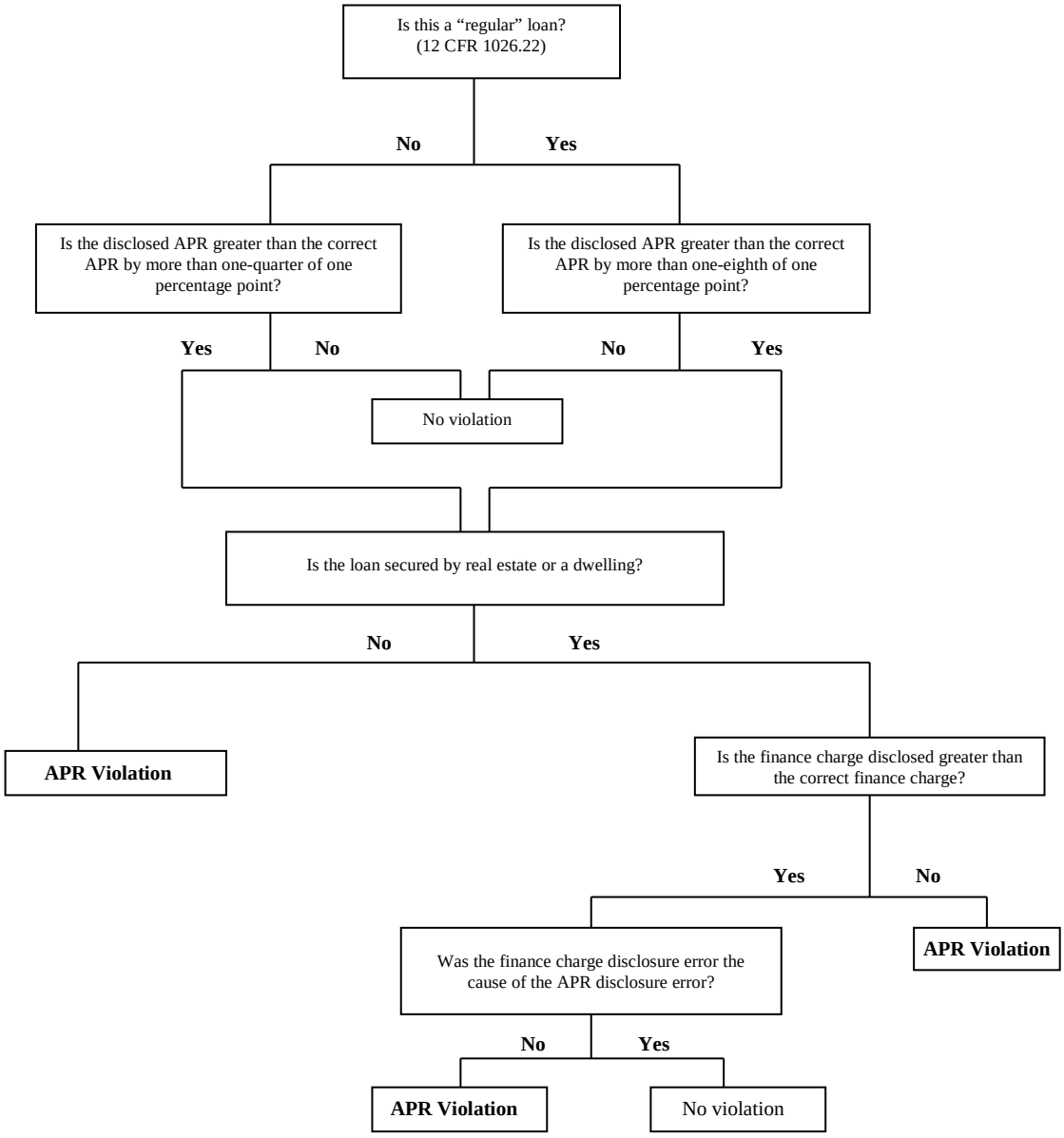
Closed-End Credit: Accuracy and Reimbursement Tolerances for Understated Finance Charges



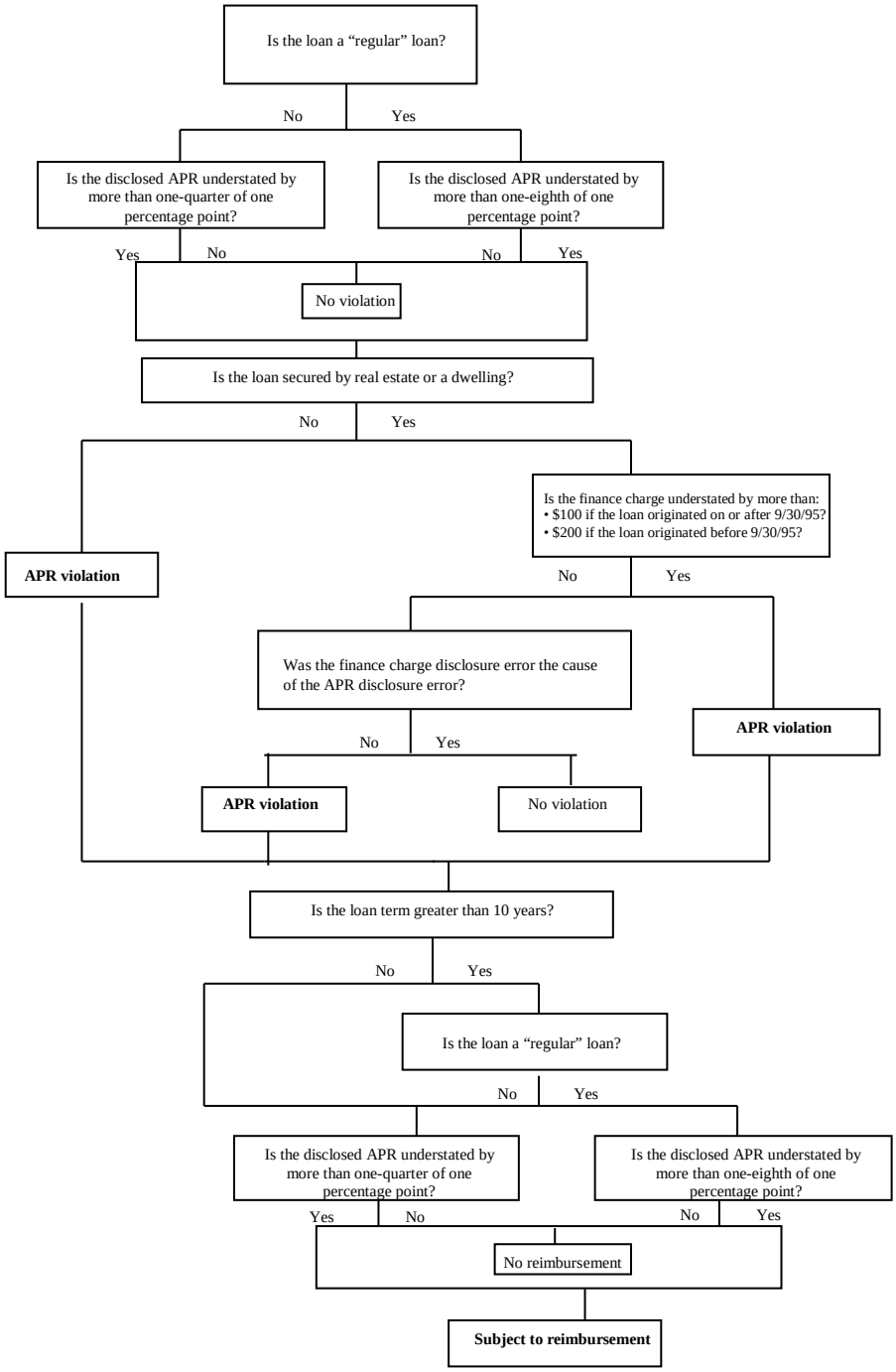
Closed-End Credit: Accuracy Tolerances for Overstated Finance Charges



Closed-End Credit: Accuracy Tolerances for Overstated APRs



Closed-End Credit: Accuracy and Reimbursement Tolerances for Understated APRs



Appendix D: Abbreviations

APOR	average prime offer rate
APR	annual percentage rate
ARM	adjustable rate mortgage
CDFI	community development financial institution
CFPB	Consumer Financial Protection Bureau
EIC	examiner-in-charge
FDCPA	Fair Debt Collection Practices Act
FFIEC	Federal Financial Institutions Examination Council
FHA	Federal Housing Administration
FIRREA	Federal Institutions Reform, Recovery, and Enforcement Act of 1989
FRB	Board of Governors of the Federal Reserve System
GFE	good faith estimate
GSE	government-sponsored enterprise
HAMP	Home Affordable Modification Program
HARP	Home Affordable Refinance Program
HELOC	home equity line of credit
HOEPA	Home Ownership and Equity Protection Act of 1994
HPML	higher-priced mortgage loan
HUD	U.S. Department of Housing and Urban Development
IRS	Internal Revenue Service
LO	loan originator
MDIA	Mortgage Disclosure Improvement Act of 2008

NCUA	National Credit Union Administration
NMLSR	Nationwide Mortgage Licensing System and Registry
OCC	Office of the Comptroller of the Currency
OTS	Office of Thrift Supervision
P + I	principal and interest
PMI	private mortgage insurance
QM	qualified mortgage
RESPA	Real Estate Settlement Procedures Act
SCRA	Servicemembers Civil Relief Act
TILA	Truth in Lending Act
USDA	U.S. Department of Agriculture
USPAP	Uniform Standards of Professional Appraisal Practice
VA	U.S. Department of Veterans Affairs

References

Laws

15 USC 1601 et seq., "Truth in Lending Act" (TILA)
15 USC 1666 et seq., "Fair Credit Billing Act"
15 USC 7001 et seq., "Electronic Signatures in Global and National Commerce Act"
Housing and Economic Recovery Act of 2008, Pub. L. No. 110-289
Credit Card Accountability, Responsibility, and Disclosure Act of 2009, Pub. L. No. 111-24
Credit Card Technical Corrections Act of 2009, Pub. L. No. 111-93
Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203

Regulation

12 CFR 1026, "Truth in Lending" (Regulation Z)

Comptroller's Handbook

Consumer Compliance
"Compliance Management System"
"Other Consumer Protection Laws and Regulations"
"SAFE Act"

Safety and Soundness
"Community Bank Supervision"
"Internal and External Audits"
"Large Bank Supervision"
"Mortgage Banking"

Issuances

Joint Policy Statement, "Administrative Enforcement of the Truth in Lending Act—Restitution," 63 Fed. Reg. 47495 (September 8, 1998)
OCC Bulletin 2013-38, "Interagency Statements on Supervisory Principles for Qualified and Non-Qualified Mortgage Loans" (December 13, 2013)
"Questions and Answers Regarding Joint Interagency Statement of Policy for Administrative Enforcement of the Truth in Lending Act—Reimbursement Issued by the FFIEC on July 11, 1980, and Revised July 1998"